

WICHITA-SEDGWICK COUNTY
METROPOLITAN AREA PLANNING COMMISSION

February 19, 2015

Minutes

The regular meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission was held on Thursday, February 19, 2015 at 1:40 p.m., in the Planning Department Conference Room, 10th floor, City Hall, 455 North Main, Wichita, Kansas. The following members were present: Matt Goolsby, Chair; Carol Neugent, Vice Chair; John Dailey; David Dennis; David Foster; Bill Johnson; Joe Johnson; Don Klausmeyer; John McKay Jr.; Lowell E. Richardson; Debra Miller Stevens and Chuck Warren. Bill Ramsey and Don Sherman were absent. Staff members present were: John Schlegel, Director; Dale Miller, Current Plans Manager; Bill Longnecker, Senior Planner; Neil Strahl, Senior Planner; Jeff Vanzandt, Assistant City Attorney, Robert Parnacott, Assistant County Counselor and Maryann Crockett, Recording Secretary

1. Approval of the prior MAPC meeting minutes.

There were no minutes for approval.

2. **CONSIDERATION OF SUBDIVISION COMMITTEE RECOMMENDATIONS**

- 2-1. **SUB2015-00002: Revised One-Step Final Plat – WOLF ADDITION**, located on the east side of 167th Street West, south of 29th Street North.(COUNTY)

NOTE: This is unplatted property located in the County within three miles of the City of Wichita. It is in an area designated as “2030 Urban Growth Area” by the Wichita-Sedgwick County Comprehensive Plan.

STAFF COMMENTS:

- A. Since sanitary sewer is unavailable to serve this property, the applicant shall contact Metropolitan Area Building and Construction Department to find out what tests may be necessary and what standards are to be met for approval of on-site sewerage. A memorandum shall be obtained specifying approval. A restrictive covenant is needed for a twinned lagoon.
- B. The site is currently located within the Sedgwick County Rural Water District No. 4. If service is available, feasible and the property is eligible for service, County Code Enforcement recommends connection.
- C. City of Wichita Public Works and Utilities Department requests a No Protest Agreement for future extension of sanitary sewer and City water services.
- D. If improvements are guaranteed by petition, a notarized certificate listing the petitions shall be submitted to the Planning Department for recording.
- E. County Public Works has approved the drainage plan. If more than one acre is disturbed, applicant must apply for a Notice of Intent from the State and a Stormwater Permit.

- F. The plat denotes four openings along 167th St. West. The Subdivision Committee has approved submittal of a restrictive covenant allowing a temporary second opening for Lot 2 which would be closed upon redevelopment of the site. Two openings are permitted for Lot 1 which includes a maintenance opening.
- G. Sedgwick County Fire Department advises that the plat will need to comply with the Sedgwick County Service Drive Code.
- H. "Site redevelopment" shall be referenced correctly on the face of the plat.
- I. In accordance with the KS Wetland Mapping Conventions under the Memorandum of Understanding between the USDA-NRCS; USEPA; USACE; and USF&WS, this site has been identified as one with potential wetland hydrology. The US Army Corps of Engineers (USACE) should be contacted (316-322-8247) to have a wetland determination completed.
- J. The Applicant is reminded that a platting binder is required with the final plat. Approval of this plat will be subject to submittal of this binder and any relevant conditions found by such a review.
- K. The applicant shall install or guarantee the installation of all utilities and facilities that are applicable and described in Article 8 of the MAPC Subdivision Regulations. (Water service and fire hydrants required by Article 8 for fire protection shall be as per the direction and approval of the Chief of the Fire Department.)
- L. The Register of Deeds requires all names to be printed beneath the signatures on the plat and any associated documents.
- M. Prior to development of the plat, the applicant is advised to meet with the United States Postal Service Growth Management Coordinator (Phone: 316-946-4556) in order to receive mail delivery without delay, avoid unnecessary expense and determine the type of delivery and the tentative mailbox locations.
- N. The applicant is advised that various State and Federal requirements (specifically but not limited to the Army Corps of Engineers, Kanopolis Project Office, Route 1, Box 317, Valley Center, KS 67147) for the control of soil and wind erosion and the protection of wetlands may impact how this site can be developed. It is the applicant's responsibility to contact all appropriate agencies to determine any such requirements.
- O. The owner of the subdivision should note that any construction that results in earthwork activities that will disturb one acre or more of ground cover requires a Federal/State National Pollutant Discharge Elimination System Stormwater Discharge Permit from the Kansas Department of Health and Environment in Topeka. Also, for projects located within the City of Wichita, erosion and sediment control devices must be used on ALL projects. For projects outside of the City of Wichita, but within the Wichita metropolitan area, the owner should contact the appropriate governmental jurisdiction concerning erosion and sediment control device requirements.
- P. Perimeter closure computations shall be submitted with the final plat tracing.

- Q. Any removal or relocation of existing equipment of utility companies will be at the applicant's expense.
- R. A compact disk (CD) should be provided, which will be used by the City and County GIS Departments, detailing the final plat in digital format in AutoCAD. Please include the name of the plat on the disk. If a disk is not provided, please send the information via e-mail to Kathy Wilson (e-mail address: kwilson@wichita.gov).

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

J. JOHNSON moved, **MCKAY** seconded the motion, and it carried (12-0).

3. PUBLIC HEARING – VACATION ITEMS

- 3-1. VAC2015-00001: City request to vacate a platted easement on property,** generally located on the northwest corner of 127th Street East and Central Avenue.

OWNER/AGENT: Sunset Holdings, LLC (owner), Kaw Valley Engineering, c/o Tim Austin (agent)

LEGAL DESCRIPTION: Generally described as vacating the platted 200-foot (x) 10-foot wide utility easement running parallel to the north property line of Lot 1, Block A, Aria International Addition, Sedgwick County, Kansas.

LOCATION: Generally located on the northwest corner of 127th Street East and Central Avenue (WCC #II)

REASON FOR REQUEST: No utilities

CURRENT ZONING: The site and the abutting and adjacent, northern, western and southern properties are zoned LC Limited Commercial. 127th Street East and Kansas State Highway K-96 right-of-ways separate the site from the adjacent eastern SF-5 Single-Family Residential zoned properties.

The applicants propose to vacate the platted 200-foot (x) 10-foot wide utility easement running parallel to the north property line of Lot 1, Block A, Aria International Addition. The abutting north property is not platted and the Quarter Section Map shows no easement on the abutting unplatted north property that runs parallel to the subject easement. The subject easement crosses over a portion of a 50-foot wide pipeline easement dedicated by separate instrument; Cooperative Refinery Association Pipeline Easement, Book Misc. 239, Page 547 and Film 111, Page 953. There are utilities located within the subject easement. The Aria International Addition was recorded with the Register of Deeds March 19, 1999.

Based upon information available prior to the public hearing and reserving the right to make recommendations based on subsequent comments from City Traffic, Public Works/Water & Sewer/Stormwater, Fire, franchised utility representatives and other interested parties, Planning Staff has

listed the following considerations (but not limited to) associated with the request to vacate the described platted utility easement.

- A. That after being duly and fully informed as to fully understand the true nature of this petition and the propriety of granting the same, the MAPC makes the following findings:
1. That due and legal notice has been given by publication as required by law, in the Wichita Eagle, of notice of this vacation proceeding one time January 29, 2015, which was at least 20 days prior to this public hearing.
 2. That no private rights will be injured or endangered by vacating the described platted utility easement and that the public will suffer no loss or inconvenience thereby.
 3. In justice to the petitioner, the prayer of the petition ought to be granted.

Conditions (but not limited to) associated with the request:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.
- (2) Provide to Planning any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide to Planning a legal description of the vacated platted easement on a Word document, via e-mail, to be used on the Vacation Order, prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

SUBDIVISION COMMITTEE'S RECOMMENDED ACTION

The Subdivision Committee recommends approval subject to the following conditions:

- (1) Abandonment or relocation/reconstruction of any/all utilities, made necessary by this vacation shall be to City Standards and shall be the responsibility and at the expense of the applicant. As needed provide an approved private project plan number for the abandonment /relocation of public utilities. As needed provide approval from franchised utilities for the relocation of

franchised utilities. All to be provided to the Planning Department prior to this case going to City Council for final action.

- (2) Provide to Planning any needed easements, with original signatures, for relocated utilities, prior to this case going to City Council for final action and subsequent recording with the Vacation Order at the register of Deeds.
- (3) Provide to Planning a legal description of the vacated platted utility easement on a Word document, via e-mail, to be used on the Vacation Order, prior to this case going to City Council for final action.
- (4) Per MAPC Policy Statement #7, all conditions are to be completed within one year of approval by the MAPC or the vacation request will be considered null and void. All vacation requests are not complete until the Wichita City Council or the Sedgwick County Board of County Commissioners have taken final action on the request and the vacation order and all required documents have been provided to the City, County and/or franchised utilities and the necessary documents have been recorded with the Register of Deeds.

MOTION: To approve subject to the recommendation of the Subdivision Committee and staff recommendation.

KLAUSMEYER moved, **WARREN** seconded the motion, and it carried (12-0).

PUBLIC HEARINGS

4. **Case No.: ZON2015-00001** - Jacob Management Company (owner/agent) Craig Harms requests a City zone change from SF-5 Single-family Residential to TF-3 Two-family Residential on property described as:

Lots 1 and 2, Block 4, Orchard Park, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted approximately 0.30-acre SF-5 Single-Family Residential (SF-5) zoned site. The site consists of Lots 1 and 2, Block 4, Orchard Park Addition, located on the southeast corner of Young and Newell streets. Lot 1 is developed with a tri-plex (built 1950) and Lot 2 is vacant. The site is large enough for two duplexes. The applicant proposes to build two duplexes on the property.

The site is located in a predominately SF-5 zoned single-family residential neighborhood bordered by I-235 (western boundary) and West 2nd Street (southern boundary). Commercial development is located along West Central (northern boundary) and South West Street (eastern boundary). SF-5 zoned single-family residences (built 1920 and late 1940s – 1950s) surround the site. It is unknown how long the tri-plex has existed in that location.

CASE HISTORY: The site consists of Lots 1 and 2, Block 4, Orchard Park Addition, which was recorded with the Sedgwick County Register of Deeds May 9, 1929. Staff has received no calls expressing concerns about the proposed duplexes.

ADJACENT ZONING AND LAND USE:

NORTH: SF-5	Single-family residences
SOUTH: SF-5	Single-family residences
WEST: SF-5	Single-family residences
EAST: SF-5	Single-family residences

PUBLIC SERVICES: The site has access to Newell Street and Young Street. Both are paved two-lane local roads. Both Newell and Young have 30 feet of right-of-way at this location. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The TF-3 zoning district allows single-family residence, duplexes and some (but not limited to) institutional uses such as a parks, schools and churches by right. As such, the TF-3 zoning district conforms to the urban residential category.

RECOMMENDATION: This request provides a fairly small (less than an acre) infill duplex/residential development opportunity that is not uncommon for the older neighborhoods in Wichita. These requests for TF-3 zoning have been for either multiple (more than an acre) undeveloped lots of partially SF-5 zoned subdivisions located on the edges of the city or for smaller infill sites (such as this case) located in the older sections of the city. The infill lots have either been vacant, partially developed or developed with single-family residences that were proposed be remodeled as a duplex or torn down and replaced with a duplex or duplexes. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The site is located in a predominately SF-5 zoned single-family residential neighborhood bordered by I-235 (western boundary) and West 2nd Street (southern boundary). Commercial development is located along West Central (northern boundary) and South West Street (eastern boundary). SF-5 zoned single-family residences (built 1920 and late 1940s – 1950s) surround the site.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The 0.30 acre SF-5 zoned site is developed with a tri-plex (built 1950) on Lot 1 and Lot 2 is vacant. The SF-5 zoning permits single-family residences, which, with a few exceptions, is the predominate zoning and development in the area.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences by right. The request would not introduce TF-3 zoning into the area, as there are other TF-3 sites located within two blocks of the site. Common concerns raised in the rezoning of land from SF-5 to TF-3, include a

lack of maintenance on what will probably be rental properties and a perception of subsequent negative impact on neighboring property values. However, the ability and inclination of a property owner to maintain their property is not solely dependent on if the property in question is a rental property or property that the owner lives on.

- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as parks, schools and churches. The owner proposes to demolish the existing 1950 tri-plex structure and build two duplexes with on-site parking. This type of rezoning in the older portions of Wichita is not unusual in that it allows for infill residential redevelopment opportunities.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The TF-3 zoning district allows single-family residence, duplexes and some (but not limited to) institutional uses such as parks, schools and churches by right. As such, the TF-3 zoning district conforms to the urban residential category.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **FOSTER** seconded the motion, and it carried (12-0).

5. **Case No.: ZON2015-00002** - Ruggles and Bohm, P.A. – Will Clevenger (agent) requests a City zone change from SF-5 Single-family Residential to MF-29 Multi-family Residential on property described as:

Lots 13, 15, 17, 19, 21 and 23, Block 3, College Green Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting MF-29 Multi-Family Residential (MF-29) zoning on vacant, platted lots that total approximately 0.50-acre. The site is currently zoned SF-5 Single-Family Residential (SF-5). The site consists of Lots 13, 15, 17, 19, 21 and 23; Block 3, College Green Addition, located south of West Maple on the west side of South All Hallows Avenue. The applicant proposes build multi-family residential. The purpose of the MF-29 Multi-Family Residential District is

to accommodate high-density, Multi-Family residential development and complementary land uses. In MF-29 zoning, the Unified Zoning Code (UZC) requires a minimum lot size of 3,000 square feet per dwelling unit for duplex development; 1,500 square feet per dwelling unit for multi-family (maximum 29 dwelling units per acre) or 5,000 square feet for nonresidential uses. The compatibility standards of the UZC building height on this site to 45 feet and require a 25-foot compatibility setback from SF-5 zoned lots on the south property line. Multi-family development on the site would trigger screening from abutting single-family uses and landscape requirements.

The site is located in a predominately SF-5 zoned single-family residential neighborhood on South All Hallows Avenue south of the site. Commercial development is located along West Maple.

CASE HISTORY: The site consists of Lots 13, 15, 17, 19, 21, and 23; Block 3, College Green Addition, which was recorded with the Sedgwick County Register of Deeds March 7, 1887. Staff has received no calls expressing concerns about the proposed multi-family residential development.

ADJACENT ZONING AND LAND USE:

NORTH: GC	General Commercial
SOUTH: SF-5	Single-family residences
WEST: GC	General Commercial
EAST: SF-5	Single-family residences

PUBLIC SERVICES: The site has access to All Hallows Avenue, a paved two-lane local road 30 feet of right-of-way at this location. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The MF-29 District is generally compatible with the “Urban Residential” uses.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- (1) The zoning, uses and character of the neighborhood:** The site is bounded by GC zoned lots to the north and west sides of the property and SF-5 zoned lots to the east and south of the subject property. There are several TF-3 zoned sites to the south of the site. There are two multi-family developments on north of Maple that have 100 plus units with on-site parking.
- (2) The suitability of the subject property for the uses to which it has been restricted:** The 0.50 acre SF-5 zoned site is undeveloped. The SF-5 zoning permits single-family residences, which,

with a few exceptions, is the predominate zoning and development in the adjacent area to the south and east.

- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested MF-29 zoning allows duplexes as well as single-family residences by right. The request would not introduce multi-family zoning into the area, as there are a mix of TF-3 sites located within two blocks of the site. The maximum units allowed on this site per MF-29 development standards would be 14. That number would be reduced to provide parking and drive lanes required by the development standards of the zoning district.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, multi-family and some (but not limited to) institutional uses such as parks, schools and churches. This type of rezoning in the older portions of Wichita is not unusual in that it allows for infill residential redevelopment opportunities.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “urban residential” uses. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units, condominiums, mobile home parks, and special residential accommodations for the elderly. Elementary and middle school facilities, churches, playgrounds, parks and other similar residential-serving uses may also be found in this category. The MF-29 zoning district allows single-family residence, duplexes, multi-family and some (but not limited to) institutional uses such as parks, schools and churches by right. As such, the MF-29 zoning district conforms to the urban residential category.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **FOSTER** seconded the motion, and it carried (12-0).

6. **Case No.: ZON2015-00003** - Steckline Communication, Inc. (Greg Steckline) requests a City zone change from SF-5 Single-family Residential to LC Limited Commercial subject to a Protective Overlay on property described as:

Lot 1, Block 1, Hinkle Addition to Wichita, Sedgwick County, Kansas.
AND

The North 110 feet of the South 970 feet of the West 550 feet, in Section 36, Township 26, Range 1 East of the 6th P.M., Sedgwick County, Kansas .

BACKGROUND: The application area is 11.67 platted acres zoned Single-Family Residential (SF-5) that are located approximately ½ mile west of North Woodlawn Boulevard, north of East 29th Street North. The site is currently developed with broadcast and recording studios and five guy-wire supported broadcast towers that are legal nonconforming uses. The site has approximately 550 feet of frontage along East 29th Street North. The SF-5 district does not permit broadcast and recording studios and broadcast towers by right. The applicant is seeking Limited Commercial (LC) zoning subject to Protective Overlay (PO) #295 limiting the site to the uses and development standards found in the Neighborhood Retail (NR) zoning district, which would make the existing broadcast studio facilities legally conforming and would permit a wider range of uses by right than the site's current SF-5 zoning. By code, the NR district cannot be applied to property that exceeds five acres in size. Also by code, LC zoning that is applied to land with six acres or more must be accompanied by a Community Unit Plan or Protective Overlay.

Neighborhood Retail zoning would also allow the full range of residential uses - single-family through multi-family - as well as public and civic uses - day care, limited and general, private recycling collection station - and a limited range of office and commercial uses - general office, bank, medical service, personal care service, personal improvement service, restaurant and general retail. In the NR district restaurants cannot exceed 2,000 square feet of gross floor area and cannot provide drive-thru or in-car services. Also in the NR district, individual general retail uses are restricted to 8,000 feet or less of gross floor area and outdoor storage is prohibited.

Land located to the north and east of the application area is part of Chisholm Creek Park. Property to the west and south, across East 29th Street North, is developed with single-family residences. All of the nearby land surrounding the site is zoned SF-5.

If the request is approved, the following selected development standards would automatically apply. 1) The installation of screening along the north, east and west sides of the site. Screening can be provided by a six to eight-foot tall fence, six-foot tall evergreen landscaping that provides solid year-round screening, a six-foot landscaped berm that provides solid year-round screening. 2) Compliance with the landscape ordinance that requires front yard landscaping, parking lot screening and side and rear yard landscaping (if not already present). 3) Parking lot lighting poles are limited to 15 feet in height when located within 200 feet of SF-5 or Two-Family Residential zoning (TF-3). 4) Compatibility building setbacks would be 25 feet along the north, east and west property lines. 5) Building height would be limited to 35 feet. 6) Dumpsters and refuse receptacles are required to be located at least 20 feet from SF-5 zoned property. 7) Dumpsters, outdoor work areas, heating and air conditioning units and similar uses or features are required to be screened when located within 150 feet of 29th Street.

The presence of the five guy-wire supported radio towers limit development on the site. The towers are approximately 160 feet in height and are spaced diagonally southwest to northeast in the center of the site approximately 160 feet apart. The southernmost tower, located closest to East 29th Street North and closest to the western property line, is located approximately 123 feet from the site's front property line, and 245 feet from the site's western property line. The tower located closest to the site's eastern property line is approximately 165 feet west of the east property line. The tower located closest to the northern property line is approximately 125 feet south of the north property line. The guy wires will also limit the placement of new uses on the site.

CASE HISTORY: The property is platted as Lot 1, Block 1, Hinkle Addition.

ADJACENT ZONING AND LAND USE:

North: SF-5; Chisholm Creek Park
South: SF-5; single-family residences
East: SF-5; Chisholm Creek Park
West: SF-5; single-family residences

PUBLIC SERVICES: 29th Street is a three-lane arterial with two through-lanes and a continuous center left-turn lane that carries 8,500 to 9,100 average daily vehicle trips.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for “major utility / transportation” uses. The major utility / transportation category includes utility and transportation facilities and includes a range of uses such as: airports, landing strips, landfills, water and wastewater treatment facilities. Adopted commercial location guidelines recommend: commercial uses be located at the corners of the intersection of arterial streets or higher classified roadways; traffic generated by commercial uses should not use local streets; commercial development have development features that minimize negative impacts such as noise, debris, lighting on nearby properties.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, it is recommended that the request be approved subject to the following development standards contained in Protective Overlay #295:

1. Although the site is zoned LC Limited Commercial, the site is restricted to only the uses and the development standards found in the NR Neighborhood Retail zoning district plus other applicable local, state and federal regulations or codes, including but not limited to zoning, fire, building, traffic, stormwater and environmental.
2. At the time building permits are requested, the applicant shall comply with current access management requirements and shall guarantee or provide road improvements (left turn lanes, accel/decel-lanes, etc.) needed to accommodate further development of the site. If required by the stormwater engineer, a drainage plan shall be submitted for review and approval as part of the application for a building permit.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land located to the north and east of the application area is part of Chisholm Creek Park. Property to the west and south, across East 29th Street North, is developed with single-family residences. All of the nearby land surrounding the site is zoned SF-5. Due to the presence of Chisolm Creek Park the land on the north side of East 29th Street presents a fairly low density feel.
2. The suitability of the subject property for the uses to which it has been restricted: The site is currently zoned SF-5 but is developed with broadcasting studios and radio broadcast towers, which are not allowed by right in the SF-5 district. The site could continue to be used as

currently developed; however, if the broadcast studios were destroyed more than 50 percent they would not be able to be reconstructed. The structure could only be rebuilt in conformance with code requirements. The current zoning is unsuitable for the current use.

3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed zone change would permit a wider range of uses than currently permitted; however, the size of the site, the site's current use and the proposed development standards limit detrimental impacts on nearby properties.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Approval would allow the applicant to remove the non-conforming status of the radio broadcast facilities and would provide additional opportunity for non-residential uses to serve the area immediately surrounding the application area. Denial would presumably represent a loss of economic opportunity to the applicant.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts the site as appropriate for "major utility / transportation" uses. The major utility / transportation category includes utility and transportation facilities and includes a range of uses such as: airports, landing strips, landfills, water and wastewater treatment facilities. Adopted commercial location guidelines recommend: commercial uses be located at the corners of the intersection of arterial streets or higher classified roadways; traffic generated by commercial uses should not use local streets; commercial development have development features that minimize negative impacts such as noise, debris, lighting on nearby properties.
6. Impact of the proposed development on community facilities: Additional development on the site can trigger the need for additional traffic or stormwater improvements. The recommendation of the protective overlay addresses those concerns.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

DENNIS moved, **MCKAY** seconded the motion, and it carried (12-0).

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7. **Case No.: ZON2015-00004** - Triple D LLC, Dave Burk requests a City request for an expansion of the Old Town Protective Overlay to include LI Limited Industrial zoned property on property described as:

Lots 22, 23, 24 and the half vacated alley on the West, Block B, H.L. & Annie M. Taylor Addition.

BACKGROUND: The applicant is requesting the LI zoned property to be included in the OT-O Old Town Overlay district. The site consists of Lots 22, 23, and 24, Block B, H. L. and Annie M. Taylor's Addition, located on the northwest corner of Washington Avenue and 2nd Street. Lot 24 is developed with a small commercial building and Lots 22 and 23 are vacant. The applicant proposes to develop a

commercial structure that is in keeping with the characteristics of surrounding warehouse and commercial buildings that are built to the lot lines except in the front yard.

The site is located in an industrial/commercial area with limited on-site parking available. The lack of parking is the primary reason for the request for OT-O zoning. The Old Town Overlay District has reduced parking requirements when compared to most other zoning districts, and has provisions which allow for the use of off-site shared public parking spaces by property owners in the Old Town Parking District by paying a monthly fee, in lieu of providing the on-site parking.

However, inclusion in the Old Town Overlay District does not automatically include the property in the Old Town Parking District. A separate ordinance will have to be prepared and approved to include the site in the Old Town Parking District. Until the property is included in the Old Town Parking District, the applicant will need to provide parking as required by the appropriate section of the Unified Zoning Code (UZO).

If this request is approved, the underlying zoning on the property would remain LI, but the property would become subject to the design, signage, and parking requirements of the OT-O district. The OT-O district also permits a wider range of uses such as residential that are not permitted in the existing LI zoning.

CASE HISTORY: The site consists of Lots 22, 23, and 24, Block B, H.L and Annie M Taylor's Addition, which was recorded with the Sedgwick County Register of Deeds June 23, 1879. Staff has received no calls expressing concerns about the proposed zone change.

ADJACENT ZONING AND LAND USE:

NORTH: LI	Limited Industrial
SOUTH: LI	Limited Industrial
WEST: LI	Limited Industrial
EAST: LI, CBD	Limited Industrial and Central Business District

PUBLIC SERVICES: The site has access to East 2nd Street and North Washington. East 2nd Street is a one-way, 3-lane arterial and North Washington Avenue is a 4-lane arterial, 2-lanes in each direction. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts the site as a Downtown Regional Center. This area encompasses the central business district area of Wichita that is intended to serve as residential, employment, entertainment, cultural, and government center for the City. Much of this area is covered by the Master Plan for Downtown Wichita formally adopted by City Council in Dec 2010. As such, the OT-O zoning district conforms to the Downtown Regional Center category.

RECOMMENDATION: Based upon information available prior to the public hearing, planning staff recommends that the request to create the addition to the Old Town Overlay District be **APPROVED**.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The area is a warehousing/industrial district that was developed from 1900 – 1950. There has been some demolition of buildings that have resulted in surface parking lots and newer construction. Surface parking lots in the area, with a few exceptions, are part of the Old Town Parking District. Immediately south of the site is a surface lot that is owned by the City and included in the parking district.
- (2) **The suitability of the subject property for the uses to which it has been restricted:** The 0.40 acre LI zoned site is developed with a small commercial building on Lot 24 and Lots 22 and 23 are vacant. The site could be used for many commercial uses as currently zoned, but is limited by the LI district parking requirements. The OT-O district provides a mechanism for more parking flexibility that maximizes the use of the site.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** Depending on the site's ultimate use, increased demand for parking could occur that would not be met immediately by the City through the Parking District. This could add congestion and conflicts for the exiting uses in the vicinity that are operating on week days.
- (4) **Conformance of the request change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide map depicts the site as a Downtown Regional Center. This area encompasses the central business district area of Wichita that is intended to serve as residential, employment, entertainment, cultural, and government center for the City. Much of this area is covered by the Master Plan for Downtown Wichita formally adopted by City Council in March 2010. As such, the OT-O zoning district conforms to the Downtown Regional Center category.
- (5) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure. Also, it is reasonable to expect that the infrastructure of streets, drainage, lighting, etc. will be upgraded as need arises.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **FOSTER** seconded the motion, and it carried (12-0).

8. **Case No.: ZON2015-00005** - Luis and Betty Moreno (owners/applicants) request a City zone change request from MF-29 Multi-family Residential to LC Limited Commercial on property described as:

Lots 5 and 7 EXCEPT the West 10 feet for street CC A-53868, Block H, South University Place Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The application area has 50 feet of frontage along Meridian, with 130-foot depth. The site is currently zoned MF-29 Multi-family Residential and county records describe the current use as warehouse distribution or storage facility. The applicant seeks a zone change to LC Limited

Commercial. Property to the south was rezoned from MF-29 to LC in 2007, along with property to the north, which was also rezoned MF-29 to LC in 2007. This request would complete the block with LC zoning.

North of the subject site, the property is zoned LC and is developed with a warehouse distribution/storage facility. Property to the south is also zoned LC and is developed with a single-family residence. Property east of the subject site, across the alley, is zoned TF-3 Two-family Residential and is developed with a church/place of worship. Property west of the site, across Meridian Avenue, is zoned GC General Commercial and is developed with a single-family residence.

CASE HISTORY: The property was platted as Lots 5-7, Except the West 10 feet for street, Block H, South University Place Addition, Wichita, Sedgwick County, Kansas in 1887.

ADJACENT ZONING AND LAND USE:

NORTH:	LC	Warehousing/Storage
SOUTH:	LC	Single-family Residence
EAST:	TF-3	Church/Place of worship
WEST:	GC	Single-family Residence

PUBLIC SERVICES: South Meridian is a paved, 4-lane, section-line arterial street with an 80-foot right-of-way at this location. The application area has one access point from Meridian and access from the alley east of the property. All normal utilities are available at the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality. The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should be located in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets. The proposed zone change from MF-29 to LC would require conformance to all property development standards to include setbacks, compatibility standards, parking, screening and landscape requirements. The application area is within the Stanley/Alley Neighborhood Association. No neighborhood plans exist at this location.

RECOMMENDATION: The immediate surrounding area is a mixture of multi-family residential, commercial, institutional, office, and warehousing uses. Staff finds the proposed zoning and development compatible with the existing uses and zoning in the immediate area. Based upon the information available prior to the public hearings, planning staff recommends that the request be **APPROVED**.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** North of the subject site, the property is zoned LC and is developed with a warehouse distribution/storage facility. Property to the south is also zoned LC and is developed with a single-family residence. Property east of the subject site, across the alley, is zoned TF-3 Two-family Residential and is developed with a church/place

of worship. Property west of the site, across Meridian Avenue, is zoned GC General Commercial and is developed with a single-family residence.

2. **The suitability of the subject property for the uses to which it has been restricted:** Under the current zoning, the site could be used for single-family or multi-family residential uses or two-family residential uses.
3. **Extent to which removal of the restrictions will detrimentally affect nearby property:** Approval of the request would allow all land uses permitted in LC zoning on the site. The effect on nearby residents could be increased traffic, noise, trash and light from a non-residential use.
4. **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies the site as appropriate for “Urban Residential.” The Urban Residential category includes all densities of residential development found within the urban municipality. The Comprehensive Plan Commercial Locational Guidelines state the following: commercial sites should be located adjacent to arterial streets or major thoroughfares that provide needed ingress and egress in order to avoid traffic congestion; commercial development should be located in compact clusters or nodes versus extended strip developments; and commercially-generated traffic should not feed directly onto local residential streets. The proposed zone change from MF-29 to LC would require conformance to all property development standards to include setbacks, compatibility standards, parking, screening and landscape requirements. The application area is within the Stanley/Alley Neighborhood Association. No neighborhood plans exist at this location.
5. **Impact of the proposed development on community facilities:** The proposed zone change should have no significant impact on streets and utility services.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **FOSTER** seconded the motion, and it carried (12-0).

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9. **Case No.: ZON2015-00006** - Alternative Gift Markets, Inc., c/o Tony Princ (owner) and FHL Property Management c/o BJ Sheu (agent) request a City zone change request from NO Neighborhood Office to LC Limited Commercial on property described as:

Lot 2, Block A, Frazey Addition to Wichita, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting LC Limited Commercial zoning on the approximately 0.25-acre (10,435-square feet) NO Neighborhood Office zoned subject site; Lot 2, Block A, Frazey Addition. The subject site has an approximately 3,286-square foot office located on it. The office was originally built in 1886, as a single-family residence, the Purdue House. The Queen Ann Classical Revival style building is one of four buildings that are part of the North Topeka Avenue – 10th Street Historic District, which was entered in the National Historic Register in 1983. The applicant will need to

meet on site with the Historic Preservation Planner, to review the standards for any use conversation/remodeling of this registered site/structure.

The applicant proposes to convert the 3,286-square foot building into a bed and breakfast inn, a restaurant and possible general retail uses. The NO zoning district does not permit a bed and breakfast inn nor does it permit restaurants or retail uses. A bed and breakfast inn is first permitted by right in the GO General Office zoning district; Unified Zoning Code (UZY) Sec.III-D. General retail uses and restaurants are first permitted in the NR Neighborhood Retail zoning district, however restaurants cannot exceed 2,000-square feet in gross floor area, nor shall they provide any drive-up window service or in-vehicle food service. Delivery and carry-out services are acceptable; UZY Sec. III-D.6.t. The LC zoning district allows general retail and does not have the above restrictions on restaurants.

A bed and breakfast inn (UZY, a maximum of 15 guests) requires one parking space per guest room, plus one per 250-square feet used for retail purposes, professional and service facilities, offices, meeting rooms, recreational spaces; one per five occupants required for tavern and drinking establishment, club or restaurant that is contained within the bed and breakfast inn. A restaurant requires one on-site parking space per three customers. For a building this size the parking requirement for general retail is one parking space per 333-square feet.

The applicant's site plan shows 24 common parking spaces for both the subject site and the abutting north property; Lots 1 and 2, Frazey Addition. The agent now owns both of these properties. Combining the size of these two site's two buildings gives a total of 7,102-square feet that could be used for non-residential activities/development. The current parking could support retail in both buildings, as 22 spaces would be required. The 24 parking spaces would support 72 restaurant customers and staff. A possible lack of on-site parking for this size of non-residential development is a current consideration and has been a long time consideration on the two sites. BZA40-83 was an approved variance to reduce parking from 44 to 33 total parking spaces for the two sites. Since 1983 the two sites appear to have lost nine parking spaces. It is reasonable to state that the lack of on-site parking would need to be resolved thru off-site parking or another variance.

The GO zoned Via Christi St Francis regional medical complex is the dominant development in the area; Z-2535 and Community Unit Plan CUP DP-132, 10-18-1983. The northwest portion of Via Christi is located southeast of the site across 10th Street North and Topeka Avenue. South of the site, across 10th Street North, are a NO zoned group residence (CON2008-00033), B Multi-Family Residential and LC zoned, medical services and parking lots. The NO zoned group residence was originally constructed in 1885 as a single-family residence and is part of the North Topeka Avenue – 10th Street Historic District. The agent's LC zoned property abuts the north side of the site; ZON2014-00021 with Protective Overlay PO-291. The abutting north building was original constructed in 1886 as a single-family residence that was converted into an office and is included in the North Topeka Avenue – 10th Street Historic District; the Anawalt House. Both the subject site and the abutting LC zoned office have joined/common paved parking in the rear half of their properties which are connected by a shared common drive onto 10th Street North. A B zoned single-family residence (built 1920) is adjacent to the north side of the subject site and is included in the North Topeka Avenue – 10th Street Historic District. B zoned medical and dental offices and a NO zoned social services building are located further north of the subject site. TF-3 Two-Family Residential, B and GO zoned medical and dental offices, a two story apartment building and a single-family residence are located east of the site across Topeka Avenue. The site's close proximity to Via Christi and the other medical and dental facilities in the area could make the possibility

of walk up traffic to the restaurant and retail a consideration in addressing the site's possible lack of on-site parking. There are LC zoned sit down/full service restaurants, fast food restaurants, motels, offices, parking lots, social services and a few vacant buildings located along Broadway Avenue abutting and adjacent to the west side of the site and the neighborhood it is located in.

CASE HISTORY: The subject site was rezoned, Z-2487, from B Multi-Family Residential to BB Office (now NO) on March 22, 1983, subject to replatting; Lot 2, Frazey Addition. The Frazey Addition was recorded with the Sedgwick County Register of Deeds October 20, 1983. The Frazey Addition was originally part of Harvey's Reserve in the Stafford and Wright's Addition, which was recorded on May 6, 1884. The Board of Zoning Appeals case BZA40-83 reduced the parking on the north abutting Lot 1 and Lot 2, Frazey Addition from 44 to 33 parking spaces. There are currently 24 parking spaces for Lots 1 and 2, Frazey Addition. The applicant has applied for a variance to reduce the parking on the sites, BZA2015-00006. As previously noted the site is one (the Purdue House) of four buildings that are part of the North Topeka Avenue – 10th Street Historic District, which was entered in the National Historic Register in 1983. This historical district is located in the Midtown Neighborhood Plan; County Resolution 87-04, May 19, 2004 and City Ordinance 46-179, May 18, 2004.

ADJACENT ZONING AND LAND USE:

NORTH: B, NO	Office, single-family residence, medical/dental offices, social services building
SOUTH: NO, B, LC, GO	Group residence, medical services, parking lots, regional medical complex
WEST: LC	Sit down/full service restaurants, fast food restaurants, motels, offices
EAST: B, GO, TF-3	Medical/dental offices, two story apartment building, single-family residence

PUBLIC SERVICES: The site shares a common drive onto 10th Street North with the abutting north property. 10th Street North is a paved, two-lane local street with 41 feet of right-of-way. The site has frontage on Topeka Avenue, a paved one-way south collector street with 80 feet of right-of-way. Currently the site has no developed access onto Topeka Avenue. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for Local Commercial category of uses. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The purpose of the requested LC zoning district is to accommodate retail, commercial, office and other complementary land uses. The LC and GO (as is NR zoning) zoning districts are generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

The site is located within the Midtown Neighborhood Plan. The Plan recognizes the need for additional off-street parking and it also wants to identify locations where on-street parking would be appropriate. Possibly due to its near proximity to the Via Christi medical complex and other medical offices in the immediate area, this portion of Topeka Avenue is heavily used for on-street parking. The Plan stresses the need to preserve the old homes in the area and even though the use of the subject site's building has

evolved over the years from single-family residential to multi-family residential and most recently office, the subject building appears to be in reasonable good repair.

RECOMMENDATION: The request does not introduce LC zoning into this area located north of the Topeka Avenue – 10th Street North intersection, as the abutting north property recently rezoned from GO to LC; ZON2014-21 with PO #291. A persistent consideration with the subject site and the abutting northern property is the possible lack of on-site parking for nonresidential uses. BZA40-83 was an approved variance to reduce parking from 44 to 33 parking spaces for both sites. Since 1983 the two sites appear to have lost nine parking spaces. It is reasonable to state that the lack of on-site parking would need to be resolved thru off-site parking or another variance. Based on the information available prior to the public hearing, MAPD staff recommends the application be APPROVED, subject to the following provisions of a Protective Overlay:

- 1) Permitted uses: single-family residential, government service, hospital, library, university or college, bank or financial institution, bed and breakfast inn, medical service, general office, personal care service, personal improvement service, general retail
- 2) Restaurants are permitted with no drive-up window service nor in-vehicle food service.
- 3) The applicant will meet on site with the Historic Preservation Planner, to review the standards for any use conversation/remodeling of this registered site/structure, prior to the issuing of permits.
- 4) Provide a variance or off-site parking for Lots 1 and 2, Frazey Addition to be used to resolve the lack of on-site parking. If a variance is approved, provide a covenant binding and tying Lots 1 and 2, Frazey Addition's parking lots as shared parking between the two sites.

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The GO zoned Via Christi St Francis regional medical complex is the dominant development in the area; Z-2535 and Community Unit Plan CUP DP-132, 10-18-1983. The northwest portion of Via Christi is located southeast of the site across 10th Street and Topeka Avenue. South of the site, across 10th Street North, are a NO zoned group residence (CON2008-00033), B Multi-Family Residential and LC zoned, medical services and parking lots. The NO zoned group residence was originally constructed in 1885 as a single-family residence and is part of the North Topeka Avenue – 10th Street Historic District. The agent's LC zoned property abuts the north side of the site; ZON2014-00021 with PO #291. The abutting north building was originally constructed in 1886 as a single-family residence that was converted into an office and is included in the North Topeka Avenue – 10th Street Historic District; the Anawalt House. Both the subject site and the abutting LC zoned office have paved joined/common parking in the rear half of their properties which are connected by a shared common drive onto 10th Street North. A B zoned single-family residence (built 1920) is adjacent to the north side of the subject site and is included in the North Topeka Avenue – 10th Street Historic District. B zoned medical and dental offices and a NO zoned social services building are located further north of the subject site. TF-3 Two-Family Residential, B and GO zoned medical and dental offices, a two story apartment building and a single-family residence are located east of the site across Topeka Avenue. The site's close proximity to Via Christi and the other medical and dental facilities in the area could make the possibility of walk up traffic to a restaurant and retail a consideration in addressing the site's possible lack of on-site parking. There are LC zoned sit down/full service restaurants, fast food restaurants, motels, offices,

parking lots, social services and a few vacant buildings located along Broadway Avenue abutting and adjacent to the west side of the site and the neighborhood it is located in.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The 0.24-acre NO zoned site has a two-story office building located on it. The NO zoning permits some residential uses, office uses (including medical), and institutional uses by right. The site could continue to be used as zoned. Medical facilities are the dominant feature of the area and most of the medical facilities in the area are zoned GO. The NO zoning district does not permit restaurants, retail uses nor a bed and breakfast inn, which the requested LC zoning would allow.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested LC allows full service and fast food restaurants with drive through or curb side service. LC zoning also allows the site's original residential use(s) and its current offices use. The relatively small size of the subject site and the agent's abutting north site make a fast food restaurant with drive through or curb side service unlikely. Converting the subject site's 3,286-square foot building into a restaurant that would allow 72 customers on the agent's two properties/sites that have a combined total of 24 parking spaces would mean that no on-site parking would be available for the agent's abutting north site with its approximately 3,816-square foot building. The parking issue can be addressed by off-site parking or a variance. A variance could lead to more parking on Topeka Avenue, which appears to be heavily used for street parking for the area's medical facilities. The site's close proximity to Via Christi and the other medical and dental facilities in the area make the possibility of walk up traffic to the restaurant a consideration.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** The character of the area has evolved from the site's (and areas) original, 1886, residential use to an area redefined by the GO zoned Via Christi St Francis regional medical complex. Approval of the LC zoning request would limit development to those permitted in the proposed Protective Overlay, which is an attempt to allow uses that are somewhat compatible with the area. Denial of the request could impose a financial hardship on the owner.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The 2030 Wichita Functional Land Use Guide of the Comprehensive Plan identifies this site as appropriate for Local Commercial category of uses. This category of use encompasses areas that contain concentrations of predominantly commercial, office, and personal service uses that do not have a predominately regional market draw. The range of uses includes: medical or insurance offices, auto repair and service stations, grocery stores, florist shops, restaurants and personal service facilities.

The purpose of the LC zoning district (the requested zoning) is to accommodate retail, commercial, office and other complementary land uses. The LC and GO (as is NR zoning) zoning districts are generally compatible with the Local Commercial or Regional Commercial designations of the Wichita-Sedgwick County Comprehensive Plan.

The site is located within the Midtown Neighborhood Plan. The Plan recognizes the need for additional off-street parking and it also wants to identify locations where on-street parking would

be appropriate. Possibly due to its near proximity to the Via Christi medical complex and other medical offices in the immediate area, this portion of Topeka Avenue is heavily used for on-street parking. The Plan stresses the need to preserve the old homes in the area and even though the use of the subject site's building has evolved over the years from single-family residential to multi-family residential and most recently office, the subject building appears to be in reasonable good repair.

- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities can be handled by current infrastructure, with the exception (but not limited to) of the UZC's on-site parking requirements.

BILL LONGNECKER, Planning Staff presented the Staff Report.

MILLER STEVENS asked for clarification on the number and location of parking spaces. She mentioned that part of the area had been striped already.

LONGNECKER indicated that the applicant has also applied for a variance on the parking requirement. He said that application has not been heard by the Board of Zoning Appeals yet.

MOTION: To approve subject to staff recommendation.

NEUGENT moved, **WARREN** seconded the motion, and it carried (12-0).

- 10. **Case No.: ZON2015-00007** - Caywood, LLC, c/o Jay Russell (applicant/owner) and Baughman Company, P.A. c/o Russ Ewy request a City zone change request from SF-5 Single family Residential to TF-3 Two family Residential on property described as:

Lots 7 through 30, inclusive, Block A, Lots 2 through 16, inclusive, Block B, and Lots 1 through 4, inclusive, Block C, all in Clifton Cove Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant is requesting TF-3 Two-Family Residential (TF-3) zoning on the platted approximately 13.2-acre SF-5 Single-Family Residential (SF-5) zoned site. The site consists of 43 lots located east of Jade Avenue in the east portion of the Clifton Cove Addition. The Clifton Cove Addition is located on the south side of 63rd Street South between Clifton Avenue and the Arkansas River. The remaining partially developed 65 lots of the Clifton Cove Addition are zoned SF-5. The site is located at the south edge of the central portion of the City of Wichita.

Undeveloped SF-5 zoned lots of the Clifton Cove Addition abut the west side of the site. SF-5 zoned single-family residences (built 2007-2011) built around a sandpit lake and vacant SF-5 zoned lots, all in the Clifton Cove Addition, finish out development to the west, ending at the Arkansas River. The Arkansas River also marks the south end of the west side of the Clifton Cove Addition. A RR Rural residential (RR) zoned sandpit lake with a single-family residence (built 1920) is adjacent to the south of the site. RR zoned single-family residences (built 1920, 1946, 1988 and 2008) abut and are adjacent to the south and southeast of the site, as is RR zoned agricultural land. North of the site, across 63rd Street South, there is SF-20 Single-Family Residential (SF-20), RR and SF-5 zoned farm land. Directly north of the site, across 63rd Street South, are two single-family residence (built 1954 and 1955) that are the

only development on the SF-20 zoned 20 lots of the Woodvale Addition (recorded August 15, 1953). The subject site is located approximately ½-mile west of the McConnell Air Force Overlay District.

CASE HISTORY: The site consists of Lots 7 through 30, inclusive, Block A, Lots 2 through 16, inclusive, Block B, and Lots 1 through 4, inclusive, Block C, all in the Clifton Cove Addition, which was recorded with the Sedgwick County Register of Deeds December 7, 2005. ZON2014-00010 was a request to rezone 28 of the above noted lots, however it was deferred from the June 19, 2014, MAPC meeting and the July 2, 2014, DAB III meeting. Staff received no letter requesting an extension of ZON2014-00010 and the current request increased the area for rezoning. ZON2014-0010 has been closed with no action taken on its requested zone change. Staff has received one letter supporting the request.

ADJACENT ZONING AND LAND USE:

NORTH: RR, SF-20, SF-5	Farmland, two single-family residences, vacant lots
SOUTH: RR	Single-family residence built around sandpit lake, farmland, Arkansas River
WEST: SF-5	Vacant lots, single-family residences, Arkansas River
EAST: RR	Single-family residences, farmland

PUBLIC SERVICES: The site will have access to 63rd Street South, a paved four-lane arterial road, through the Clifton Cove Addition's paved (or will be paved) residential streets. All utilities are available to the site, including the City of Wichita's water and sewer service.

CONFORMANCE TO PLANS/POLICIES: The "2013 Land Use Guide of the Comprehensive Plan" (2013-Plan) identifies the SF-5 zoned site as a "potential future park site." The site is shown as being close to or part of a "Proposed Park Target Area" in the "Wichita Parks and Open Space Plan;" adopted 2009. The Proposed Park Target Areas are identified as areas where new parks are needed to meet future community needs. The site's current SF-5 and proposed TF-3 zoning allows parks by right. The site's current SF-5 zoning allows single-family residential uses, as well as some institutional uses, but not duplexes, by right. The proposed TF-3 allows duplexes, as well as family residential uses and some institutional uses by right. The Clifton Cove Addition's (which the site is a part of) current single-family residential development and the proposed duplex development is compatible with the 2013-Plan's urban residential category.

RECOMMENDATION: If approved, the requested TF-3 zoning will permit the first duplexes into the area. However, this type of rezoning in partially developed single-family residential subdivisions is not unusual at a time (the present and recent past) when the purchasing of single-family homes is slow and the owner/developer is paying the fees for the placement of City water and sewer services and property tax in a subdivision that is only partially developed. Based upon information available prior to the public hearings, planning staff recommends that the request be **APPROVED.**

This recommendation is based on the following findings:

- (1) **The zoning, uses and character of the neighborhood:** The area is a mix of City and County lands zoned SF-5, SF-20 and RR. Some of the SF-5 and SF-20 properties are partially developed urban scale single-family residential subdivisions. The subject site is located in one of these partially developed SF-5 zoned single-family residential subdivisions, the Clifton Cove Addition.

The rest of the properties in the area are developed as large tract single-family residences and farmland. There are no other TF-3 zoned properties in the immediate area as well as in the larger area. The area is bordered by the Arkansas River on its west and a portion of its south sides, which impacts the area in the form of FEMA Floodways and Flood Zones.

- (2) **The suitability of the subject property for the uses to which it has been restricted:** The site consists of 43 SF-5 zoned vacant lots, all in the Clifton Cove Addition. The SF-5 zoning permits single-family residences, which is how a portion of the Clifton Cove Addition is currently developed.
- (3) **Extent to which removal of the restrictions will detrimentally affect nearby property:** The requested TF-3 zoning allows duplexes as well as single-family residences and some institutional uses by right. The request would introduce TF-3 zoning into the area. Common concerns raised in the rezoning of land from SF-5 to TF-3, include a lack of maintenance on what will probably be rental properties and a subsequent negative impact on neighboring property values. However, the ability and inclination of a property owner to maintain their property is not solely dependent on if the property in question is a rental property. In this situation these concerns could be addressed by a private contract between the developer/owner of the subdivision and those individuals buying lots in the subdivision.
- (4) **Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant:** Approval of the request would limit development by right to single-family residential, duplex, and some (but not limited to) institutional uses such as parks, schools and churches. Denial of the request could impose a financial hardship on the owner. This type of rezoning in partially developed single-family residential subdivisions is not unusual at a time (the present and the recent past) when the purchasing of single-family homes is slow and the owner/developer is paying the fee for the placement of City water and sewer services and property tax in a subdivision that is only partially developed.
- (5) **Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies:** The “2013 Land Use Guide of the Comprehensive Plan” (2013-Plan) identifies the SF-5 zoned site as a “potential future park site.” The site is shown as being close to or part of a “Proposed Park Target Area” in the “Wichita Parks and Open Space Plan;” adopted 2009. The Proposed Park Target Areas are identified as areas where new parks are needed to meet future community needs. The site’s current SF-5 and proposed TF-3 zoning allows parks by right. The site’s current SF-5 zoning allows single-family residential uses, but not duplexes, by right. The Clifton Cove Addition’s (which the site is a part of) current single-family residential development and the proposed duplex development is compatible with the 2013-Plan’s “urban residential” category.
- (6) **Impact of the proposed development on community facilities:** All services are in place and any increased demand on community facilities, as a result of the proposed TF-3 zoning, can be handled by current infrastructure.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER said the Commission received written correspondence with four questions that staff may want to address. He specifically referred to the questions about traffic.

CHAIRMAN GOOLSBY suggested that the Commission hear the case.

He indicated that there is not a significant increase in the amount of traffic between single-family and two-family residential zoning. He said as far as devaluation of property is concerned, staff has never found anything conclusive to come down either yeah or nay on that issue. He said he looked at development in the area and determined that this type of development, although new to this area is not new to this type of plat. He said as far as lowering the speed limit on a residential street, he suggested the neighbors contact the Public Works Department. He said he is not sure how to answer the concerns regarding trash, garbage and littering along 63rd Street. He said that will vary based on the individual property owner's ability and inclination to taking care of their property. He added that he doesn't know how that concern is relevant to the zoning request. He said staff is recommending approval of the request with no Protective Overlay.

FOSTER referred to page 2 "Conformance to Plans and Policies" with reference to the mention of a future park site. He asked for further explanation including the location of the proposed park.

LONGNECKER said this area was identified in the "Park and Open Space Plan" in 2009 as an area where new parks will be needed to meet future community needs. He said SF-5 and duplex zoning allows parks "by right". He said he was not aware of any specific park projects for the area at this time, but mentioned the area's close proximity to the Arkansas River.

RUSS EWY, BAUGHMAN COMPANY, P.A., 315 ELLIS, AGENT FOR THE APPLICANT JAY RUSSELL who he said was present and could perhaps add additional clarification to some of the Commissioner's questions. He referred to the letter of support from the property owner located to the south of the site attached to the Staff Report. He said the applicant has also contacted property owners to the east and north, as well as the Homeowner's Association President to discuss the project. He said with any proposed redevelopment projects, the developer is left with the financial burden of the special assessments. He said there are specials for stormwater and sanitary sewer on this property.

LARRY JUSTICE, 6209 S. HOLYOKE, DERBY said they own property from Clifton to the river. He mentioned concerns about traffic because there is not good visibility looking back towards the east along 63rd Street. He said they would like to see a light at the turn area. He said there have been several accidents there over the last four years where cars got rear ended while trying to turn because of lack of visibility and the fact that people speed through the area. He said he wanted to add items #5 and #6 to their letter to include concerns regarding only one entry for the entire area for the Fire Department. He referred to the aerial map and mentioned the red line to the west of the area. He said they understand that there is an agreement to put a wall up there so there will no longer be access available from that side. He said for item #6, there are a lot of deer and turkey and other wildlife in the area including bald eagles nesting along the river.

PHIL MCDANIELS, 6413 S. JADE AVENUE, DERBY said his property is located immediately west of the proposed zoning change and backs up onto the small lake to the west of the development. He said he wanted to concur with the previous speaker regarding the speed of the traffic and the danger of 63rd Street as it bends and goes west. He said it is a dangerous situation and although the posted speed limit is 45 mph, traffic is generally going between 45 and 55 mph. He said when you have to stop and make the left hand turn onto Jade and yield to oncoming traffic, he is always concerned about not being rear ended. He said he can't imagine how twin homes are going to enhance their property values. He said they are also not clear on access to the area. He said they believe there will be access on Clifton and assume there will be access coming down Jade Street. He said he is also concerned about the twin homes adding traffic on their street.

JAY RUSSELL, 3438 BEACHCLUB, WICHITA said they are aware of the requirement for a connection on the existing road on the south side of the area. He said the design includes a fence that will separate the existing subdivision to the west from the duplexes to the east. He said it is a wood fence over a utility easement which was a compromise with the HOA Board of Directors when they started the project over a year ago. He said there will be a gate to allow access to the Fire Department.

FOSTER asked why Jade couldn't continue to the north and allow access to Clifton and then into a cul-de-sac to get away from that intersection.

RUSSELL said a secondary access is required. He asked if Commissioner Foster was suggesting that they replat and put an access out onto 63rd Street.

FOSTER said he did not want to play Traffic Engineer but he believes enough concerns have been raised that it is evident that the curve on 63rd Street is a dangerous condition and some solution needs to be looked at.

EWY said they intend to replat the property and he considers that a platting issue as opposed to the land use issue the Commission is dealing with today. He said Commissioner Foster's suggestion is something they can look at.

WARREN said he understands the concerns regarding traffic, but said he has lived in a duplex and there is not that much difference in the traffic counts between single and multi-family residential.

GOOLSBY clarified that the Planning Commission has nothing to do with the speed limits on 63rd Street; that is handled by Public Works.

FOSTER said one of the issues discussed with regard to the Comprehensive Plan is neighborhood connectivity. He said he believes there should be pedestrian access between the two neighborhoods.

MOTION: To approve subject to staff recommendation.

WARREN moved, **KLAUSMEYER** seconded the motion, and it carried (12-0).

11. **Case No.: CON2015-00001** - Vincent and Quinnda McMullen (Owners/Applicants) request a County Conditional Use request for a temporary accessory apartment on property zoned RR Rural Residential on property described as:

Part of the West ½ of the Northwest ¼ of Section 36, Township 29 South, Range 2 East, in Sedgwick County, Kansas.

CHAIRMAN GOOLSBY announced that the item had been deferred to the March 5, 2015 Planning Commission Hearing.

- 12. **Case No.: CON2015-00002** - Rosendo and Celsa Martinez (owners/Applicants) request a City Conditional Use request for an accessory apartment on property zoned SF-5 Single family Residential on property described as:

A tract of land beginning 336 feet West of the Northeast corner of Government Lot 4, Section 5, Township 27 South, Range 1 East of the 6th P.M., Sedgwick County, Kansas, thence South 427 feet; thence West 102 feet; thence North 427 feet; thence East 102 feet to the place of beginning .

BACKGROUND: The applicants request a conditional use for an “accessory apartment” on property zoned SF-5 Single-family Residential (“SF-5”), the site is located south of 29th Street North and west of Woodland Avenue (941 West 29th Street North.) The property is currently developed with a single-family residence built in 1920 and a detached garage. The property is just under one acre in size, with the site dimensions 100 feet wide by 400 feet deep. All surrounding property is zoned SF-5 and developed with single-family residences except the property to the west which is developed with an office use. All corners of the intersection of West 29th Street North and North Woodland Avenue, east of the subject site, is zoned LC Limited Commercial (“LC”) and is developed with office, warehouse and single-family residential uses.

According to the submitted site plan, the proposed accessory structure/apartment would have more square footage than the primary structure. However, there is nothing in the Wichita-Sedgwick County Unified Zoning Code (“UZC”) that states that an accessory structure/apartment needs to be smaller than the principal structure. The UZC defines an “accessory apartment” (Art. II.Sec. II-B.1.b) as a dwelling unit that may be wholly within, or may be detached from a principal single-family dwelling unit. Accessory apartments are also subject to supplementary use regulation Art. III.Sec.III-D.6.a (1) a maximum of one accessory apartment may be allowed on the same lot as a single-family dwelling unit that may be within the main building, within an accessory building or constructed as an accessory apartment; (2) the appearance of an accessory apartment shall be compatible with the main dwelling unit and with the character of the neighborhood; (3) the accessory apartment shall remain accessory to and under the same ownership as the principal single-family dwelling unit, and the ownership shall not be divided or sold as a condominium and (4) the water and sewer service provided to the accessory apartment shall not be provided as separate service from the main dwelling. Electric, gas, telephone and cable television utility service may be provided as separate utility services.

The SF-5 zoning district property development standards call for a minimum rear setback of 20 feet for principal structures; however, accessory structure rear building setback (Sec. III-D.7.e(1)) shall be at least ten feet from the centerline of any platted or dedicated alley, and if no alley exists, then five feet

from the rear lot line; accessory structures may be within three feet of a side lot line if on the rear half of the property. Accessory structures may not utilize more than one-half of any required rear yard, and shall not exceed 60 percent of the allowable height limit for the zoning district unless the accessory structure conforms to principal structure setback requirements. The SF-5 zoning district maximum height is 35 feet, 60 percent of which is 21 feet. The UZC parking standards require one off-street parking space per single-family residence and one per accessory apartment. The submitted site plan appears to conform to UZC requirements.

CASE HISTORY: The subject site is currently unplatted.

ADJACENT ZONING AND LAND USE:

NORTH:	SF-5	Single-family residences
SOUTH:	SF-5	Single-family residences
EAST:	SF-5	Single-family residences
WEST:	SF-5	Office

PUBLIC SERVICES: The property is serviced by all publicly supplied municipal services. West 29th Street North is a paved, 3-lane arterial street at this location with sixty foot right-of-way.

CONFORMANCE TO PLANS/POLICIES: The 2030 Wichita Functional Land Use Guide map depicts this site as appropriate for “urban residential.” The “urban residential” category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units.

RECOMMENDATION: This lot is deeper than average city lots, and therefore has enough room to accommodate the accessory apartment and associated parking. Based on information available prior to the public hearings, planning staff recommends that the request be APPROVED, subject to the following conditions:

1. The Conditional Use permits one single-family accessory apartment on the site. The site shall be developed and maintained in general conformance with the approved site plan and elevation drawings.
2. The site shall be developed and maintained in conformance with all applicable regulations, including but not limited to: local zoning, including Article III, Section III-D.6 .a.(1)-(4); building, fire and utility regulations or codes.
3. If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VII hereof, may, with the concurrence of the Planning Director, declare the Conditional Use null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: All surrounding property is zoned SF-5 and developed with single-family residences except the property to the west which is developed with an office use. All corners of the intersection of West 29th Street North and North Woodland

Avenue, east of the subject site, is zoned LC Limited Commercial (“LC”) and is developed with office, warehouse and single-family residential uses.

2. The suitability of the subject property for the uses to which it has been restricted: The property is zoned SF-5 which permits the existing single-family residence. The property could continue to be used for one single-family residence; the depth of the property easily accommodates an accessory apartment and the additional required parking space.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: Approval of the request should not detrimentally impact nearby properties. The accessory apartment site is well separated from neighboring lots. The conditions of approval should minimize any impacts.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The 2030 Wichita Functional Land Use Guide map depicts this site as appropriate for “urban residential.” The “urban residential” category encompasses areas that reflect the full diversity of residential development densities and types typically found in a large urban municipality. The range of housing types found includes single-family detached homes, semi-detached homes, zero lot line units, patio homes, duplexes, townhouses, apartments and multi-family units.
5. Impact of the proposed development on community facilities: If this request is approved, the site is served by municipal services that are able to accommodate projected demand created by this request.

DERRICK SLOCUM, Planning Staff presented the Staff Report.

FOSTER referred to the diagram provided with the Staff Report and asked how many apartments were being proposed or if it was a single apartment with four bedrooms.

SLOCUM said it was a single structure with a few bedrooms in it.

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13. Case No.: CON2015-00003 - Wichita memorial Post #3115 VFW, Inc., c/o William John Herrman and Warren K. Kingafelter (owners/applicants) request a City Conditional Use request for an Event Center that allows entertainment and consumption of alcohol on LC Limited Commercial zoned property on property described as:

Lot 1, Block A, REPLAT of Lot 1, Block A, Westbreeze Second Addition, Sedgwick County, Kansas.

BACKGROUND: The applicant, Wichita Memorial Post #3115 Veterans of Foreign Wars (VFW), Inc., is requesting consideration for a Conditional Use for nightclub in the city, with restrictions, on the LC Limited Commercial zoned lot located on the southwest corner of Douglas Avenue and Anna Street. Per the “Wichita-Sedgwick County Unified Zoning Code” (UZC, Sec II-B.3.f) a war veterans' club that operates for the exclusive use of their families and guests accompanying them is defined as a Class A Club. VFW Post #3115 is not open to the general public, but is reserved for its members and their guests; VFW Post #3115 is a Class A Club. The applicants’ liquor license is current and there is no restriction on the amount of liquor served and consumed on the site. The applicant proposes to provide

a venue for special events, such as hosting welcome home parties, weddings, birthdays, karaoke and dances with or without live music and similar activities for the members of VFW Post #3115 and their guests. The applicant needs an entertainment license for these activities. An establishment that serves unrestricted amounts of alcohol for consumption on the site and that also provides live entertainment or dancing is defined as a nightclub in the city. When a LC zoned proposed nightclub in the city is located within 300 feet of a church, public park, school or residential zoning district a Conditional Use is required. The proposed site abuts and is adjacent to SF-5 Single-Family Residential and TF-3 Two-Family Residential zoning in all directions, i.e., the site less than 300 feet from residential zoning. Staff has found no previous Conditional Use or Use Exception for a tavern/drinking establishment or nightclub for this site.

Currently the VFW Post #3115 is open, for its members and their guest, seven days a week, typically 3 p.m. to 11 or 12 a.m., Monday through Friday and 11 a.m. to 11 or 12 a.m. Saturday and Sunday; the site is not open to the general public. A nightclub in the city can stay open until 2 a.m. The Fire Marshal has posted an occupancy of 270 people. A nightclub requires one parking space for two people, meaning the site would need 135 parking spaces. The applicant has stated that the site has approximately 90 parking spaces. The parking considerations could be addressed by a variance or other considerations. The UZC requires solid screening separating the LC zoned site from the abutting and adjacent SF-5 and TF-3 zoned properties.

The site (built 1940 with expansion in 1969) is located in a predominately SF-5 zoned single-family residential neighborhood, with most of the homes built in the 1950s. SF-5 zoned single-family residences abut and are adjacent to the south side of the site. SF-5 zoned single-family residences are adjacent, across a 20-foot wide alley, to the west side of the site. SF-5 and TF-3 zoned single-family residences are adjacent, across Douglas Avenue, to the north side of the site. East of the site, across Anna Street, are a LC zoned single-family residence, LC and GO General Office zoned single-family residence, undeveloped land, a GO zoned apartment and SF-5 zoned single-family residences.

CASE HISTORY: Z-0238 was a denied request (May 5, 1960) for rezoning the site from LC Light Commercial to C Commercial. The minutes from May 5, 1960, meeting note that the LC zoning was established after annexation (1951-1960) to accommodate the existing light commercial uses (no mention of those uses) on the site and the southeast corner of Douglas Avenue and Anna Street. There was no mention of a bar or drinking establishment on the site in the May 5, 1960 minutes. The site is Lot 1, Block A, Westbreeze Second Addition, which was recorded with the Sedgwick County Register of Deeds September 7, 1962. Staff has received several calls with questions about the request, but none of them protested the proposed use as requested by VFW Post #3115. The VFW has been at this location for 13-years. Oral history has stated that prior to the VFW the site was occupied by a tavern/drinking establishment known as Frankie's Lounge. Staff has found no previous Conditional Use or Use Exception for a tavern/drinking establishment or nightclub for this site.

ADJACENT ZONING AND LAND USE:

<u>NORTH:</u>	SF-5, TF-3	Single-family residences
<u>SOUTH:</u>	SF-5	Single-family residences
<u>EAST:</u>	LC, GO, SF-5	Single-family residences, vacant land, apartment
<u>WEST:</u>	SF-5	Single-family residences

PUBLIC SERVICES: Douglas Avenue is a paved two-lane local street at this location with a 70-foot right-of-way. Anna Street is a paved two-lane collector street at this location with a 75-foot right-of-way. The site has two drives onto Douglas Avenue and two drives onto Anna Street. All utilities are available to the site.

CONFORMANCE TO PLANS/POLICIES: The “2013 Land Use Guide of the Comprehensive Plan” (Plan) identifies the site and the larger area as “urban residential.” The area’s (but not the site) predominant zoning is SF-5 which is compatible with the urban residential category. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality, plus such institutional uses such as parks, schools and churches. The site’s LC zoning is not compatible with the urban residential category. The LC zoning is compatible with the Plan’s “local commercial” category, which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. When a LC zoned proposed nightclub in the city is located within 300 feet of a church, public park, school or residential zoning district a Conditional Use is required. The LC zoned site less than 300 feet from residential zoning, thus the Conditional Use request. A LC zoned site needs to have direct access onto an arterial street to direct traffic away from residential neighborhoods. The subject site does not meet the locational criteria; Douglas Avenue is a paved two-lane local street at this location and Anna Street is a paved two lane collector street.

RECOMMENDATION: Based upon information available prior to the public hearings, planning staff recommends that the request for a nightclub in the city be APPROVED, subject to the following conditions:

- (1) The nightclub is not open to the general public, but is reserved for the members of Wichita Memorial Post #3115 Veterans of Foreign Wars and their guests.
- (2) No outdoor entertainment, music, or recreation is permitted on the site.
- (3) The applicant shall comply with all applicable development standards of the UZC, including but not limited to parking and screening, within one-year of approval of the Conditional Use or the request will be null and void.
- (4) The applicant shall obtain, maintain, and comply with all applicable permits and licenses necessary for the operation of a nightclub in the city.
- (5) The applicant shall file a covenant with the Register of Deeds noting the Conditional Use and its conditions is attached to Lot 1, Block A, Westbreeze Second Addition.
- (6) If the Zoning Administrator finds that there is a violation of any of the conditions of the Conditional Use, the Zoning Administrator, in addition to enforcing the other remedies set forth in Article VIII of the Unified Zoning Code, may, with the concurrence of the Planning Director, declare that the Conditional Use is null and void.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: The site (built 1940 with expansion in 1969) is located in a predominately SF-5 zoned single-family residential neighborhood, with most of the homes built in the 1950s. SF-5 zoned single-family residences abut and are adjacent to the south side of the site. SF-5 zoned single-family residences are adjacent, across a 20-foot wide alley, to the west side of the site. SF-5 and TF-3 zoned single-family residences are

adjacent, across Douglas Avenue, to the north side of the site. East of the site, across Anna Street, are a LC zoned single-family residence, LC and GO General Office zoned single-family residence, undeveloped land, a GO zoned apartment and SF-5 zoned single-family residences.

2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned LC, which allows a wide variety of retail, office and residential uses. The LC zoning was established after the site was annexed into Wichita (1951-1960) to accommodate the existing light commercial uses (no mention of those uses) on the site. Post #3115 has been operating as a Class A Club for at least the last 13 years and prior to that the site was a tavern/drinking establishment. Staff has found no record of a Conditional Use or a Use Exception that would have allowed a tavern/drinking establishment on the site. Past use has established what appears to be a non-conforming use in a residential neighborhood. If the Conditional Use request for a nightclub, with restrictions, is approved the site will need to come into compliance with the development standards of the UZC.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The site appears to have been a long time non-conforming tavern/drinking establishment located within a predominately single-family residential neighborhood. The Conditional Use should minimize detrimental impact on nearby properties, in establishing that the facility can be used only by members of Wichita Memorial Post #3115 Veterans of Foreign Wars and their guests. It would take an amendment to the Conditional Use to allow the facility to be open to another group and/or the general public. Without the Conditional Use the positive benefits generated by the facility to the area's SF-5 zoned residences, beyond not having a vacant building on the site, are questionable; a nightclub or a tavern/drinking establishment is not an appropriate use for the area. The site needs to meet the code required parking, screening and landscaping standards to further minimize detrimental impact on nearby property.
4. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The "2013 Land Use Guide of the Comprehensive Plan" (Plan) identifies the site and the larger area as "urban residential." The area's (but not the site) predominant zoning is SF-5 which is compatible with the urban residential category. The urban residential category encompasses areas that reflect the full diversity of residential development densities and types typically found in large urban municipality, plus such institutional uses such as parks, schools and churches. The site's LC zoning is not compatible with the urban residential category. The LC zoning is compatible with the Plan's "local commercial" category, which contains concentrations of predominately commercial, office and personal service uses that do not have a significant regional market draw. The range of uses includes: medical or insurance offices, auto repair or service stations, grocery stores, florist shops, restaurants and personal service facilities. When a LC zoned proposed nightclub in the city is located within 300 feet of a church, public park, school or residential zoning district a Conditional Use is required. The LC zoned site less than 300 feet from residential zoning, thus the Conditional Use request. A LC zoned site needs to have direct access onto an arterial street to direct traffic away from residential neighborhoods. The subject site does not meet the locational criteria; Douglas Avenue is a paved two-lane local street at this location and Anna Street is a paved two lane collector street.
5. Impact of the proposed development on community facilities: None identified.

BILL LONGNECKER, Planning Staff presented the Staff Report.

FOSTER asked staff to confirm that the conditional use for a nightclub in the City would go with the land so if the property was sold it could become a nightclub.

LONGNECKER referred to the restrictions listed in the Staff Report including the provision that the club was not open to the public but to VFW members and their guests only. He said a public hearing would be required if the applicant wanted to turn this into a nightclub open to the general public.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **WARREN** seconded the motion, and it carried (11-0-1).

KLAUSMEYER recused himself from the item and left the bench.

- 14. Case No.: CON2015-00004** - JRD, LLC (Jay Russell)/ Baughman Company, P.A. (Russ Ewy) request a City Conditional Use request for soil extraction on SF-5 Single family Residential zoned property on property described as:

That part of Government Lot 1 in the NE ¼ of Sec. 27, Twp. 28-S, R -1-E of the 6th P.M., Sedgwick County, Kansas lying east of the Big Arkansas River, except the north 200.00 feet thereof.

AND

The NW ¼ of the NW ¼ of Sec. 26, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County, Kansas, subject to road rights-of-way of record, TOGETHER with that part of the SW ¼ of the NW ¼ of said Sec. 26 described as follows: Beginning at the NW corner of the SW ¼ of said NW ¼; thence easterly along the north line of the SW ¼ of said NW ¼, 568.00 feet; thence southerly parallel with the west line of said NW ¼, 58.5 feet, more or less, to the centerline of a ditch; thence following the centerline of said ditch to a point on the west line of said NW ¼, 140.00 feet, more or less, south of the NW corner of the SW ¼ of said NW ¼; thence northerly along the west line of said NW ¼, 140.00 feet, more or less, to the point of beginning.

AND

A tract in Government Lot 2 in the NE ¼ of Sec. 27, Twp. 28-S, R-1-E of the 6th P.M., Sedgwick County Kansas described as beginning at the NE corner of said Government Lot 2; thence southerly, along the east line of said Government Lot 2, 140 feet to the centerline of a ditch; thence southwesterly, along the centerline of said ditch to the point of intersection of said centerline and the East bank of the Big Arkansas River, said point being 830 feet south of the north line of said Government Lot 2; thence northwesterly, along said east bank to a point on the north line of said Government Lot 2; thence east 1062 feet, more or less, to the point of beginning.

BACKGROUND: The applicant is requesting “conditional use” approval for the “mining and quarrying” of topsoil from approximately 83 unplatted acres located at the southwest corner of South Clifton Avenue and East 55th Street South. The property is zoned SF-5 Single-Family Residential (SF-5). Access to the site is proposed to be a 50-foot wide road from South Clifton Street. The active excavation area is to be buffered by existing vegetation that is to remain. Inside the buffer strip is an access road that is to ring the work area. The excavation area is to be divided into three parts. The

borrow area for Part A is four and one-half acres and is located in the center of the active borrow area. Borrow area Part B is located west of Part A and contains eight and one-half acres. Borrow area Part C is located east of borrow area Part A and contains six acres. None of the borrow areas are to hold standing water and will not exceed five feet in depth. Stockpiled soil is to be located along the western and southern border of the application area. A silt fence is to be installed along the southern border of borrow area Part B. The site is located in the flood fringe of the Arkansas River floodplain. Significant tree rows exist along the east, south and west property lines. There is not a significant tree row along the northern property line. The proposed excavation prepares the site for future single-family residential development and addresses a need for fill dirt at an offsite construction location. The applicant estimates the site will generate approximately 15 truck trips per day when in operation. The applicant is requesting a ten-year time frame to complete excavation. It is anticipated that excavation activities will occur in sporadic fashion. Excavation will occur when material is needed and will stop when a project is completed until such time as the site reaches the limits of excavation and/or market demand dictates that the site should transition from a soil removal operation to a subdivision.

Land surrounding the application area is zoned SF-5 or SF-20 Single-Family Residential (SF-20) and is large-lot single-family residential, urban density single-family residential, cropland or vacant. The application is located approximately three-fourths of a mile west of the western boundary of McConnell Air Force Base Airport Overlay District (AOD) II South; however, the site is located well outside of McConnell Air Force Base's "area of critical interest" that requires the base to be notified of the request.

The Wichita-Sedgwick County Unified Zoning Code (UZC) permits "mining and quarrying" of topsoil in the SF-5 zoning district with "conditional use" approval and subject to the supplementary use regulations contained in Article III, Section III-D.6.gg, which lists 23 operational standards, such as a requirement for a site plan, a post excavation redevelopment plan, fencing, dust control, length of time for extraction and hours of operations. The supplementary use standards may be modified as part of the conditional use hearing.

CASE HISTORY: SUB2006-00087, the Meadowlake Beach Addition included the subject site as well as property located north of 55th Street; however, a final plat covering the application area has not been submitted for approval.

ADJACENT ZONING AND LAND USE:

North: SF-5 and SF-20; urban density and large-lot single-family residences
South: SF-20; cropland
East: SF-20 and IP-A; cropland, vacant
West: SF-5 west of the Arkansas River; Arkansas River,

PUBLIC SERVICES: 55th Street west of South Clifton Street to Meadowview Street is a paved divided two-lane local street that provides access to a single-family residential subdivision. West of Meadowview Street 55th Street is an unpaved half- street that looks more like a private drive than a public street that provides access to four large-lot single-family residences. South Clifton Street is a two-lane paved arterial street as is 55th Street east of South Clifton. 55th Street east of South Clifton Street provides direct access to K-15/Southeast Boulevard. Sanitary sewer, running east to west across the entire length of the application area, is located approximately 204 feet south of the 55th Street. Sanitary sewer is also located along the site's South Clifton Street frontage. Public water service is

located in 55th Street up to the point where Meadowview Street turns north and along the site's Clifton Street frontage.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" of the Comprehensive Plan identifies this property as "urban development mix," which is defined as land that is likely to be developed in the next 30-years with uses predominately found in the "urban residential use" category. However there is likelihood that concentrations or pockets of "major industrial uses," "local commercial uses" and "park and open space uses" may also be developed in this area. The urban development mix category is an area waiting for development trends. The proposed soil extraction operation (which the UZC classifies as an Industrial, Manufacturing, Extractive Use) and the proposed single-family residential development that is likely to follow after the conclusion of the extraction operation both fit into the "urban development mix."

The site is zoned SF-5. The UZC, allows consideration of mining or quarrying as a Conditional Use in the SF-5 zoning district; UZC, Sec-III-D.6.gg. Sec-III-D.6.gg. has 23 supplementary conditions for a mining and quarrying Conditional Use.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared it is recommended that the request be approved subject to the following conditions:

1. The extraction operation on the site shall proceed in accordance with an operational plan approved by the Planning Commission. The perimeter of the excavation shall conform to the approximate size and shape indicated on the approved operational plan. To assist in the enforcement of the operational plan, a copy of the approved operational plan shall be posted on the site.
2. If the excavation creates areas with standing water, the excavation operation will abide by the rules and design requirements set forth in the Federal Aviation Administration Advisory Circular 150/5300-33B "Hazardous Wildlife Attractants On or Near Airports" to prevent the site from attracting any hazardous wildlife.
3. The operational plan shall illustrate which area is to be excavated and in what phase.
4. Uses after the conclusion of the extraction operation, shall be submitted to the Planning Director for review and a recommendation to the Planning Commission as to whether or not the development plan is compatible with surrounding land uses, the Comprehensive Plan or other plans or policies being utilized by the City. The redevelopment plan submitted with conditional use application depicts a single-family residential subdivision. Said redevelopment plan fulfills this requirement and does not require additional planning commission review provided the final design is in substantial conformance with the MAPC approved redevelopment plan. The site shall be developed in conformance with the redevelopment plan unless specifically adjusted or amended.
5. Fencing of the site is not required provided excavation does not exceed five feet in depth, the slopes of excavation areas comply with specified slope requirements and the site is posted "no trespassing."

6. Sufficient overburden material shall be retained in the area of extraction to grade and construct the banks so they are formed with overburden material rather than sand.
7. The owner of the property shall be responsible for minimizing blowing dust from the site. To minimize blowing soil, overburden shall not be removed more than six months in advance of the excavation area being expanded, per the operational plan, unless the ground is covered within the next planting season with a perennial drought-resistant grass or combination of which will permit the establishment of sod cover to help prevent erosion. As part of the required operational plan, the site shall be divided into at least two distinct areas for the purpose of showing phased excavation over time.
8. To provide for bank stabilization and safety of future uses, the side slopes of the extraction shall be no steeper than five horizontal feet to one vertical foot. All slopes shall have vegetative covering consisting of a perennial drought-resistant grass or combination of grasses that will permit the establishment of sod cover to help prevent erosion.
9. The applicant shall submit a restrictive covenant to the Planning Department in a form satisfactory to city legal counsel, prior to the commencement of any extraction providing that no foreign matter, such as rubbish, trees, car bodies, etc., shall be deposited on the application area or within the extraction area.
10. The storage of equipment or stockpiling of sand or overburden is not permitted closer than 100 feet to any public right of way, or closer than 50 feet to any property line.
11. Nothing in the approval of a Conditional Use shall be construed to permit a contractor's material and equipment storage yard. Within 60 days after completion of the extraction operation, the land surrounding the excavation pit shall be properly graded and planted with a vegetative cover. Also, all stockpiled material and related excavation equipment shall be removed from the subject site. No commercial recreational activities, such as motor cross or other recreational activities shall be permitted unless authorized by applicable codes or permissions.
13. Excavation is permitted from the date of final approval for five years. At the end of the five year period, the conditional use may be extended by administrative adjustment. Hours of operation for extraction shall be limited to 6:00 a.m. to sunset.
14. Any on-site storage of fuels or chemicals must be approved by the Sedgwick County Environmental Resources.
15. A drainage plan shall be submitted to and approved by City Public Works prior to starting the extraction operation. All of the area included in the extraction operation shall be graded in accordance with the approved drainage plan, or if applicable, FAA design standards contained in "Hazardous Wildlife Attractants On or Near Airports" cited above. The extraction area shall be developed so as to not become a wetland area or to inhibit the flow of stormwater.

16. All operational roads, stockpiles, work areas or areas with disturbed soil shall be maintained in a sand or gravel condition and/or shall be treated with water or other acceptable dust retardant to effectively minimize blowing dust.
17. All applicable local, state, and federal permits necessary for the extraction operation and for flood plain development shall be obtained and maintained.
18. If operations have not begun within one year of approval, the Conditional Use shall be null and void.
19. If the Zoning Administrator finds that there is a violation of any of the conditions of this Conditional Use, the Zoning Administrator may, with the concurrence of the Planning Director, declare the Conditional Use null and void. Upon the receipt of a complaint that is determined to be a violation of the conditions of approval, the applicant shall be notified of the complaint and have 72 hours to contact zoning enforcement to address the complaint. Failure to address the validated complaint may lead to additional enforcement efforts.
20. Within 60 days of final approval, the applicant shall file with the county register of deeds a document that provides notice that the property is subject to the development standards contained in Conditional Use 2015-00004.

This recommendation is based on the following findings:

1. The zoning, uses and character of the neighborhood: Land surrounding the application area is zoned SF-5 or SF-20 Single-Family Residential (SF-20) and is large-lot single-family residential, urban density single-family residential, cropland or vacant. The application is located approximately three-fourths of a mile west of the western boundary of McConnell Air Force Base Airport Overlay District (AOD) II South; however, the site is located well outside of McConnell Air Force Base's "area of critical interest" that requires the base to be notified of the request. The property is located at the edge of the City of Wichita's current development, and, based upon market demand, will transition from agricultural uses to more intense land uses.
2. The suitability of the subject property for the uses to which it has been restricted: The site is zoned SF-5 which primarily permits single-family residential uses and a few institutional and civic uses, by right, such as, schools, churches and public parks. The site could reasonably be expected to provide economic return as currently zoned. However, to prepare the site for development for single-family residential will require site grading and stormwater control that can be facilitated by the topsoil removal proposed by the current application request.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The requested action permits a temporary use that will facilitate the development of the site at some future point. While excavation is underway the site will have earth moving equipment that may generate noise and dust. However, proposed conditions of approval, length of time operations may occur, such as hours of operations, setbacks and dust control, are designed to minimize impacts on nearby property.

4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: Denial would presumably represent a loss of economic opportunity to the applicant. Approval would provide fill material for offsite construction projects while preparing the application area for further development which is expected to provide additional housing for the south Wichita-Derby-McConnell Air Force Base area.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” of the Comprehensive Plan identifies this property as “urban development mix,” which is defined as land that is likely to be developed in the next 30-years with uses predominately found in the “urban residential use” category. However there is likelihood that concentrations or pockets of “major industrial uses,” “local commercial uses” and “park and open space uses” may also be developed in this area. The urban development mix category is an area waiting for development trends. The proposed soil extraction operation (which the UZC classifies as an Industrial, Manufacturing, Extractive Use) and the proposed single-family residential development that is likely to follow after the conclusion of the extraction operation both fit into the “urban development mix.”

The site is zoned SF-5. The UZC, allows consideration of mining or quarrying as a Conditional Use in the SF-5 zoning district; UZC, Sec-III-D.6.gg. Sec-III-D.6.gg. has 23 supplementary conditions for a mining and quarrying Conditional Use.

6. Impact of the proposed development on community facilities: Existing or required facilities are in place to address anticipated demands on community facilities.

DALE MILLER, Planning Staff presented the Staff Report.

RUSS EWY, BAUGHMAN COMPANY, P.A., 315 ELLIS, AGENT FOR THE APPLICANT said this is an active soil removal location with a conditional use permit.

FOSTER asked how the applicant was going to get all the proposed housing out of the floodplain.

EWY said he was not an engineer, but indicated that this small island was out of the floodplain. He said there will be material left over to fill in the area once the retention ponds are dug. He said they would get permission from the State to fill in the site and get it removed from the floodplain.

RUSTIN A. ATKEISSON, 5531 SOUTH MEADOWVIEW COURT, WICHITA said he had some issues with the development already going on. He said he has gone to the site with a GPS and survey and indicated that it has already gone over five feet in depth. He asked if that was an average for the entire site or just around the edges. He mentioned that he was Secretary of the Meadow Lake Beach Homeowner’s Association and said one of the questions they have been receiving is how is this going to affect the value of their homes. He asked how soon development of homes on the site was going to happen. He mentioned the contingency to mine the area for another five years. He said there are currently 40 homes built in Meadow Lake Beach and 20 are rent to own with an option to buy at the end of a one year term. He said without knowing exactly what is going to happen in the area, residents are not willing to buy the homes. He mentioned damage from a 2012 tornado and asked about replacement of trees. He concluded by stating that the HOA only received a notice regarding this meeting. He requested more frequent contact in the future as to what is going on at the site.

EWY said he received one phone call that mirrored concerns expressed by the speaker regarding the future of the existing subdivision and whether the second phase of the development would be scrubbed due to the condition of the housing market. He said it was difficult to give a time table as to how and when this subdivision would continue to grow and flourish. He said this type of conditional use permit is lumped in with sandpits and mining, but a borrow pit is quite a different animal from sand extraction. He said they are required to get a conditional use permit because of the earth work at the site and hauling dirt off of the site for a different construction project.

FOSTER asked who was verifying the depth of the excavation and if someone would have to ask staff to do that.

EWY said MABCD (code enforcement) which he believes is a complaint driven process. He said he is not sure if there is an on-site inspector for the permits they are required to obtain for the dirt work.

FOSTER requested that staff follow up and check with code enforcement on that.

MOTION: To approve subject to staff recommendation.

MCKAY moved, **B. JOHNSON** seconded the motion, and it carried (11-0-1).
KLAUSMEYER – abstained.

- 15. **Case No.: PUD2015-00001** - TCRS, LLC (Jeff Lang) / Baughman Company, P.S. (Russ Ewy) request a City zone change request from SF-5 Single family Residential and LC Limited Commercial to a PUD Planned Unit Development on property described as:

A portion of the Northeast Quarter of Section 18, Township 28 South, Range 1 East, of the Sixth Principal Meridian, Sedgwick County, Kansas described as beginning at the northeast corner of said Northeast Quarter; thence S00°54'28"E (assumed), along the east line of said Northeast Quarter, 1520.70 feet, to a point 1119.80 feet north of the southeast corner of said Northeast Quarter, also being the northeast corner of South Lake Addition to the City of Wichita, Kansas, Sedgwick County, Kansas; thence S89°05'02"W, along the north line of Lot 1, in said South Lake Addition, 1248.68 feet to a deflection point in the north line of said Lot 1; thence N05°57'28"W, along an easterly line of said Lot 1 extended north, 29.53 feet; thence S89°02'32"W, parallel with the northern most north line of said Lot 1, and 8.50 feet normally distant north of the northern most north line of said Lot 1, 97.25 feet; thence N00°53'16"W, 1491.65 feet to a point on the north line of said Northeast Quarter, said point being 1348.00 feet west of the northeast corner of said Northeast Quarter; thence N89°05'47"E, along the north line of said Northeast Quarter, 1348.00 feet to the Point of Beginning. Subject to Road Right of Ways of Record (Parcel B contains 2,047,056.6 square feet or 46.994± acres (Gross including Road Right of Ways), or 1,911,763.9 square feet or 43.888± acres (Net excluding Road Right of Ways)).

AND

A portion of the Northeast Quarter of Section 18, Township 28 South, Range 1 East, of the Sixth Principal Meridian, Sedgwick County, Kansas described as commencing at the northeast corner of said Northeast Quarter; thence S00°54'28"E (assumed), along the east line of said Northeast Quarter, 1580.70 feet, to a point 1059.80 feet north of the southeast corner of said Northeast

Quarter, also being the southeast corner of South Lake Addition to the City of Wichita, Kansas, Sedgwick County, Kansas and for a point of beginning; thence continue S00°54'28"E, along the east line of said Northeast Quarter, 324.97 feet to the northeast corner of Stein Addition, Wichita, Sedgwick County, Kansas; thence S88°52'26"W, along the north line of said Stein Addition, and Stein 5th Addition, Wichita, Sedgwick County, Kansas, 970.25 feet; thence N00°54'58"W, perpendicular to the northern most south line of Lot 1 in said South Lake Addition, 328.71 feet, to a point on the northern most south line of Lot 1 in said South Lake Addition; thence S89°05'02"E, along the northern most south line of Lot 1 in said South Lake Addition, 1020.29 feet calculated per deed, and 1020.38 feet calculated per plat to the Point of Beginning. Subject to Road Right of Ways of record (Parcel C contains 332,941.7 square feet, or 7.643± acres (Gross including Road Right of Ways), or 316,764.6 square feet, or 7.272± acres (Net excluding Road Right of Ways)).

AND

A portion of the Northeast Quarter of Section 18, Township 28 South, Range 1 East, of the Sixth Principal Meridian, Sedgwick County, Kansas described as commencing at the northeast corner of said Northeast Quarter; thence S00°54'28"E (assumed), along the east line of said Northeast Quarter, 1520.70 feet, to a point 1119.80 feet north of the southeast corner of said Northeast Quarter, also being the northeast corner of South Lake Addition to the City of Wichita, Kansas, Sedgwick County, Kansas; thence S89°05'02"W, along the north line of Lot 1, in said South Lake Addition, 1248.68 feet to a deflection point in the north line of said Lot 1; thence N05°57'28"W, along an easterly line of said Lot 1, 21.00 feet to the point of beginning; thence S89°02'32"W, along the northern most north line of said Lot 1, 98.00 feet; thence N00°53'16"W, 8.50 feet to a point 8.50 normally distant north of the northern most north line of said Lot 1; thence N89°05'02"E, parallel with the northern most north line of said Lot 1, 97.25 feet; thence S05°57'28"E, along an easterly line of said Lot 1, as extended north, 8.53 feet to the Point of Beginning (Parcel D contains 830.3 square feet or 0.019± acres).

AND

A portion of the Northeast Quarter of Section 18, Township 28 South, Range 1 East, of the Sixth Principal Meridian, Sedgwick County, Kansas described as commencing at the northeast corner of said Northeast Quarter; thence S00°54'28"E (assumed), along the east line of said Northeast Quarter, 2230.64 feet, to a point 734.83 feet north of the southeast corner of said Northeast Quarter, to the northeast corner of Stein Addition, Wichita, Sedgwick County, Kansas; thence S88°52'26"W, along the north line of said Stein Addition, and Stein 5th Addition, Wichita, Sedgwick County, Kansas, 970.25 feet to the point of beginning; thence continue S88°52'26"W, along the north line of Lot 4 in said Stein 5th Addition, 194.03 feet to the east line of Lot 1, South Lake Addition to the City of Wichita, Sedgwick County, Kansas; thence N05°57'28"W, along the east line of Lot 1 in said South Lake Addition, 4.15 feet, said point also being 1068.77 feet north of the southeast corner of Lot 1 in said South Lake Addition; thence S89°05'02"E, parallel with the northern most south line of Lot 1 in said South Lake Addition, 196.25 feet; thence S00°54'58"E, 3.71 feet to the Point of Beginning (Parcel E contains 644.7 square feet or 0.015± acres).

BACKGROUND: The applicant is seeking to rezone approximately 51 unplatted acres located at the southwest corner of West MacArthur Road and South Seneca Street from the SF-5 Single-Family Residential (SF-5) and Limited Commercial (LC) districts to the Planned Unit Development (PUD) #45 District. The majority of the property is undeveloped and has been for many years, as far as staff can determine. The northeastern corner of the site, approximately 7.6 acres, is zoned LC. A portion of the

LC zoned land previously contained a convenience store or gas station. The convenience store/gas station has recently been demolished. The proposed PUD is to be divided into three parcels. Parcel 1 is proposed to permit those uses permitted by right in the Limited Industrial (LI) district except the following uses: correctional facility; correctional placement residence, limited and general; day reporting center; kennel, boarding, breeding and training; nightclub in the city; pawn shop; secondhand store; sexually oriented business in the city; tattooing and body piercing facility; tavern and drinking establishment; asphalt or concrete plant, limited and general and grain storage. Parcels 2 and 3 permit single-family, two-family and multi-family residential uses. The property is bisected by a private access road that divides Parcel 1 from Parcels 2 and 3 that is not owned by the applicants. Parcel 2 does not have frontage on a public road and will rely upon an access easement from Seneca Street through Parcel 3, unless the applicant is able to obtain permission to use the private access drive.

Land surrounding the application area is zoned LC, SF-5, MF-29 Multi-Family Residential (MF-29) or General Industrial (GI). Land north of West MacArthur Road is developed with a utility substation, car wash, retail store or is vacant. Land east of South Seneca Street is developed with a natural gas service substation, offices and equipment yard, retail store or single-family residential. Land located south of the application area is developed with apartments or vacant. Land to the west is vacant or is apartments.

Planned Unit Development zoning is a special purpose zoning district that is intended to encourage innovative land planning and design and can be used to reduce or eliminate inflexibility that can sometimes result from strict application of the basic requirements of individual zoning districts; allows greater freedom in selecting the means to provide light, air and open space to projects; allows development to take advantage of special site characteristics or land uses and allows for deviation from certain zoning standards that would otherwise apply if not contrary to the general spirit and intent of the zoning code.

The PUD proposes the following development standards:

1. Total land area is 2,228,528 square feet or 51.16 acres. Total gross floor area of 37.7 percent or 840,302 square feet.
2. Off-street parking spaces at the rate of one space per 1,000 square feet of building area. Parking areas may be surfaced with crushed rock or similar material.
3. Building setbacks are as indicated on the PUD drawing.
4. A drainage plan shall be submitted to Public Works Department for approval. Required guarantees for drainage improvements shall be provided at the time of platting.
5. Parcel 1 is proposed to permit those uses permitted by right in the Limited Industrial (LI) district except the following uses: correctional facility; correctional placement residence, limited and general; day reporting center; kennel, boarding, breeding and training; nightclub in the city; pawn shop; secondhand store; sexually oriented business in the city; tattooing and body piercing facility; tavern and drinking establishment; asphalt or concrete plant, limited and general and grain storage. Parcels 2 and 3 permit single-family, two-family and multi-family residential uses. The property is bisected by a private access road that divides Parcel 1 from Parcels 2 and 3.
6. Three points of access are proposed along MacArthur Road, six openings along South Seneca; no access to the private drive without permission of the owner of the private drive and access to Parcel 2 is to be provided by access agreement from South Seneca through Parcel 3.

7. Screening is to be per Unified Zoning Code requirements and all screening fences or walls shall share a consistent pattern and color.
8. Landscaping is to be per the Landscape Ordinance.
9. Storage of merchandise shall be allowed outside an enclosed building only in compliance with the general screening standards of the Unified Zoning Code and the following additional standards: 1) no outdoor storage or work areas shall be permitted in any building setback; and 2) no required off-street parking space or loading area shall be utilized for storage. Outdoor storage areas may be surfaced with crushed rock or similar material.
10. Roof-mounted equipment and loading docks, trash receptacles, ground level heating, air conditioning and mechanical equipment, free-standing coolers or refrigeration units, outdoor storage including portable storage containers, outdoor work areas or similar uses shall be screened from ground level view along MacArthur Road and Seneca Street, and any residentially zoned property.
11. Setbacks are as shown on the PUD.
12. No overhead doors or loading docks shall be permitted within 50 feet of residential zoning.
13. All signs shall be limited to signs that would be allowed in the LC Limited Commercial zoning district; no off-site, billboard or portable signs shall be permitted except for off-site advertising uses located within this tract that shall be allowed to have signage place on signs fronting MacArthur Road and Seneca Street.
14. The design layout shown on the plan illustrates only one development concept. Slight modifications to the location of improvements may be permitted provided they meet all requirements of the plan.
15. Amendments, adjustments or interpretations to this PUD shall be done in accordance with the Unified Zoning Code.
16. Development may be phased based on the ability to provide adequate water and sanitary sewer infrastructure.
17. The transfer of title of all or any portion of land included within the PUD (or any amendments thereto) does not constitute a termination of the plan or any portion thereof, but said plan shall run with the land and be binding upon present owners, their successors and assigns.
18. The development of this property shall proceed in accordance with the development plan as recommended and approved by the Planning Commission and approval by the Governing Body, and any substantial deviation of the plan, as determined by the Zoning Administrator or the Director of Planning , shall constitute a violation of the building permit authorizing construction of the proposed development.
19. Any major changes in this development plan shall be submitted to the Planning Commission and to the governing body for consideration.

The engineering division of Public Works has reviewed the proposed site plan and is requesting the following modifications: 1) line up the middle driveway to West MacArthur Road with the driveway at 1240 West MacArthur Road; 2) move the easternmost driveway to West MacArthur Road a point 200 feet from the centerline of Seneca Street and limit it to a right-out/right-in only entrance; 3) increase the distance of the northernmost driveway to South Seneca Street to 200 feet from the centerline of West MacArthur Road and limit it to a right-in/right-out only entrance; 4) line up the second driveway to Seneca Street south of MacArthur Road with the driveway across the street (if it does not already) 5) limit the northernmost driveway to Parcel 3 to right-in/right-out only and allow full movement on the southernmost driveway to Parcel 3.

Access through Parcel 3 to Parcel 2 may be the most desirable, especially if the site is developed as depicted on the PUD drawing. Traffic from Parcel 2 will have to drive through the parking lot of Parcel 3 to get to and from south Seneca Street.

CASE HISTORY: The SF-5 zoning was applied when the property was annexed by the city. The LC zoning was granted in 1958 as part of a city-wide zoning action that granted LC zoning on 600-foot by 600-foot (measured from the center line of the section line road) tracts of land located at certain corners at the intersection of section line roads.

ADJACENT ZONING AND LAND USE:

North: LC and SF-5; Kansas Gas Service substation, car wash, retail store, vacant

South: MF-29; apartments

East: GI, LC, MF-29; natural gas service substation, equipment yard, retail store, single-family residential

West: MF-29, SF-5; apartments, vacant

PUBLIC SERVICES: Sanitary sewer is located along the western and southern property lines. Water lines are located on all sides of the subject property except the west. Stormwater lines are located along the northern property line and part of the application area's eastern boundary. The applicant should consult with the Public Works Department to verify if the nearby facilities are directly useable or if additional facilities would be required to serve the site. West MacArthur Road's half-street right-of-way varies from 40 to 50 feet; the standard width is 60 feet and 75 feet at the intersection. Right-of-way needs and access should be finalized at the time of platting.

CONFORMANCE TO PLANS/POLICIES: The "2030 Wichita Functional Land Use Guide" map depicts the site as appropriate for urban residential uses. The urban residential category encompasses the full range of residential development densities and types typically found in a large urban municipality, such as single-family detached, duplexes, multi-family or mobile home parks.

The South Wichita/Haysville Area Plan "Future Land Use" map depicts the site as appropriate for residential and commercial retail uses.

RECOMMENDATION: Based upon the information available at the time the staff report was prepared, it is recommended that the request be approved subject to platting within one year and the development standards contained on the face of the approved PUD drawing, unless specifically modified by the recorded plat. The location of driveways, building setbacks, street right-of-way and the location of stormwater detention features may be modified by the plat and will not require adjustment or amendment of the PUD drawing.

This recommendation is based on the following findings:

1. **The zoning, uses and character of the neighborhood:** The land surrounding the application area has a mix of zoning districts and a mix of uses. Land surrounding the application area is zoned LC, SF-5, MF-29 Multi-Family Residential (MF-29) or General Industrial (GI). Land north of West MacArthur Road is developed with a utility substation, car wash, retail store or is vacant. Land east of South Seneca Street is developed with a natural gas service substation, offices and

equipment yard; retail store or single-family residential. Land located south of the application area is developed with apartments or vacant. Land to the west is vacant or is apartments. MacArthur Road and Seneca Street are both four-lane arterials that carry between 7,000 and 16,000 vehicles on an average day.

2. The suitability of the subject property for the uses to which it has been restricted: The majority of the property is currently zoned SF-5 (43.4 acres) and LC (7.6 acres). The SF-5 district is a zoning classification that primarily permits single-family residential uses and a few institutional uses such as churches and schools by right. The LC district permits a broad range of retail commercial uses that do not require outdoor storage or display. The presence of the GI zoned natural gas service facility located to the east and the utility substation to the north may be a limiting factor for development of the site with single-family homes. Based upon the fact the vast majority of the property is vacant and has always been vacant and the GI zoning to the east, it seems reasonable to conclude that there is little market appetite for SF-5 uses at this location.
3. Extent to which removal of the restrictions will detrimentally affect nearby property: The proposed PUD would allow for a much broader range of office, commercial and light industrial uses not currently permitted on the site. Traffic, noise, lighting and general commotion will increase when compared to the current undeveloped site. The proposed development standards and required plat improvements should minimize anticipated impacts.
4. Relative gain to the public health, safety and welfare as compared to the loss in value or the hardship imposed upon the applicant: If successful, the project could become an employment center for that part of south Wichita. Denial would presumably represent a loss of economic opportunity to the applicant or the property owner.
5. Conformance of the requested change to the adopted or recognized Comprehensive Plan and policies: The “2030 Wichita Functional Land Use Guide” map depicts the site as appropriate for urban residential uses. The urban residential category encompasses the full range of residential development densities and types typically found in a large urban municipality, such as single-family detached, duplexes, multi-family or mobile home parks. The South Wichita/Haysville Area Plan “Future Land Use” map depicts the site as appropriate for residential and commercial retail uses. The requested change is not in conformance with adopted plans; however, the recommendations made by those plans probably reflect a desire to maintain the status quo in the absence of specific proposals for more intense uses.
6. Impact of the proposed development on community facilities: If developed with industrial uses, heavy truck traffic in the area will likely increase. The site appears to have access to water, sanitary sewer and stormwater facilities. The site has access to arterial streets. If improvements are needed, they can be obtained as part of the platting process.

DALE MILLER, Planning Staff presented the Staff Report.

MOTION: To approve subject to staff recommendation.

B. JOHNSON moved, **FOSTER** seconded the motion, and it carried (12-0).

Other Matters/Adjournment

The Metropolitan Area Planning Commission adjourned at 2:40 p.m.

State of Kansas)
Sedgwick County) ss

I, John L. Schlegel, Secretary of the Wichita-Sedgwick County Metropolitan Area Planning Commission, do hereby certify that the foregoing copy of the minutes of the meeting of the Wichita-Sedgwick County Metropolitan Area Planning Commission, held on _____, is a true and correct copy of the minutes officially approved by such Commission.

Given under my hand and official seal this _____ day of _____, 2015.

John L. Schlegel, Secretary
Wichita-Sedgwick County Metropolitan
Area Planning Commission

(SEAL)